

**CITY OF MARSHFIELD
TRANSIENT MERCHANT APPLICATION
PER MUNICIPAL CODE 9-53**

Approved: _____
Lic. #: _____
Issued: _____

BUSINESS NAME: _____

ADDRESS OF BUSINESS: _____

TELEPHONE NUMBER: _____ **NATURE OF BUSINESS:** _____

ACTUAL DATE(S) OF SOLICITATION: _____

LOCATION OF SALE: _____

METHOD OF DELIVERY: In Person _____ UPS _____ Mail _____ Other _____

ESTIMATED TIME OF DELIVERY: _____

FULL NAME OF APPLICANT: _____

PERMANENT ADDRESS: _____

TEMPORARY ADDRESS: _____

TELEPHONE NUMBER: _____ **DATE OF BIRTH:** _____ **HEIGHT:** _____

WEIGHT: _____ **COLOR OF EYES:** _____ **COLOR OF HAIR:** _____

VEHICLE(S) USED: Year: _____ Model: _____ Make: _____ License #: _____

LAST CITIES WHERE APPLICANT CONDUCTED SIMILAR BUSINESS:

WHERE APPLICANT CAN BE CONTACTED FOR AT LEAST 7 DAYS AFTER LEAVING THE CITY:

I, _____ hereby certify that I (have) (have not) been convicted of any crime or ordinance violation related to transient merchant business within the last five years.

Nature of Offense: _____ **Place:** _____

The undersigned hereby appoints the City Clerk of the City of Marshfield, Wisconsin, as my agent for purpose of the service of any process issued in any civil action brought against me or the company I represent and whose name is shown below arising out of any sale or service performed by the undersigned in connection with the direct sales activities of the undersigned, in the event the applicant cannot, after reasonable effort on the part of the complainant, be served personally under the applicable practice regulation of the State of Wisconsin.

Signature of Applicant: _____ **Date:** _____

Subscribed and Sworn to Before Me
This _____ day of _____, 20 _____.

_____ **My Commission Expires:** _____
(Clerk/Notary Public)

The approval of this application only applies to the named applicant. If others will be selling, attach a list of their full name(s), birthdate and a copy of their driver's license.

BACKGROUND CHECK

APPROVED: _____ **DISAPPROVED:** _____

Signature: _____ **Date:** _____
(Chief of Police/Designee)

<p><u>DOCUMENTS REQUIRED:</u></p> <p>_____ \$2,000 Surety Bond or a \$500 Cash Bond</p> <p>_____ Driver's License/Proof of Identification</p> <p>_____ State Certificate of examination and approval from the sealer of weights and measures.</p> <p>_____ State Health Officer's certificate stating applicant is free of contagious or infectious disease dated not more than 90 days prior.</p>

<p><u>FEE:</u></p> <p>_____ \$50.00 Two-day Temporary License</p> <p>_____ \$100.00 Four-day Temporary License</p> <p>_____ \$250.00 Six-month Temporary License</p> <p>_____ \$500.00 Annual License</p> <p>_____ \$10.00 Investigation Fee (per employee)</p>

Sec. 9-53. Transient merchants.

(1) *Registration required.* It shall be unlawful for any transient merchant to engage in sales within the City of Marshfield without being registered for that purpose as provided in this section.

(2) *Definitions.* For purposes of this section, the following definitions shall apply:

Charitable organization shall include any benevolent, philanthropic, patriotic, or eleemosynary person, partnership, association or corporation, or one purporting to be such.

Clerk means the city clerk.

Merchandise shall include personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of goods by a donor or prospective customer.

Permanent merchant means any person who, for at least six months prior to the consideration of the application of this section to such merchant, (i) has continuously operated an established place of business in the local trade area among the communities bordering the place of sale, or (ii) has continuously resided in the local trade area among the communities bordering the place of sale and now does business from his/her residence.

Transient merchant means any individual who engages in the retail sale of merchandise at any place in this state temporarily, and who does not intend to become and does not become a permanent merchant of such place. For purposes of this section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greater part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm, or the sale of produce or other perishable products at retail or wholesale by a resident of this state.

(3) *Exemptions.* The following shall be exempt from all provisions of this section:

- (a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (b) Any person selling merchandise at wholesale to dealers in such merchandise;
- (c) Any person selling agricultural products which the person has grown;
- (d) Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant in this city and who delivers such merchandise in their regular course of business;
- (e) Any person who has an established place of business where the merchandise being sold is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit;
- (f) Any person who has had, or one who represents a company which has a current open account with a city customer;
- (g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;
- (h) Any person selling creations of art or craft, whether paintings, drawings, photographs, pottery, other goods or similar works of art, provided that such creations may be sold only by the creating artist and only in locations not otherwise prohibited under this Code;
- (i) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;
- (j) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of such organization, provided that there is submitted to the clerk proof that such charitable organization is registered under § 440.42 Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under § 440.42 Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this section. This exemption shall also extend to an individual defined in the term "transient merchant" in subsection (2) of this section who is under the direct sponsorship and supervision of a charitable organization, but such organization shall be entitled to an exemption of this kind for not more than four events per year and shall pay a fee for such privilege of \$25.00 per year;
- (k) Any person who claims to be a permanent merchant, but against whom complaint has been made to the clerk that such person is a transient merchant; provided that there is submitted to the clerk proof that such person has leased for at least one year, or purchased, the premises from which he/she has conducted business in the market area for at least six months prior to the date the complaint was made;
- (l) Any individual licensed by an examining board as defined in § 15.01(7) Wis. Stats.;
- (m) This section does not apply to transient merchants while doing business at special events which are under the supervision and control of a local organization or business, or during special events specifically authorized by the council, provided that:
 1. Transient merchants exempt under this section must be sponsored by a stated local organization or business.
 2. The sponsoring organization or business shall be responsible for all activities of the transient merchant.

Regulation of transient merchants. Transient merchants shall comply with the following:

- (a) *Prohibited practices.* Prohibited practices are the following:
 1. A transient merchant shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "no peddlers," "no solicitors," or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
 2. A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity, or characteristics of any merchandise offered for sale; the purpose of his/her visit; his/her identity or the identity of the organization he/she represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of the merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Such portion shall be expressed as a percentage of the sale price of the merchandise.
 3. No transient merchant shall conduct sales on any sidewalks or streets within the city. Where sales are made from vehicles all traffic and parking regulations shall be observed.
 4. No transient merchant shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a 100-foot radius of the source.
 5. No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.
- (b) *Disclosure requirements.* Disclosure requirements are as follows:
 1. After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise or services he/she offers to sell and present the permit issued by the city clerk's office.
 2. If any sale of merchandise is made by a transient merchant, or any offer for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel the transaction if it involves the extension of credit or is a cash transaction of more than \$25.00, in accordance with the procedures set forth in § 423.203 Wis. Stats.; and the seller shall give the buyer two copies of a typed or printed notice of that right. Such notice shall conform to the requirements of § 423.203(1)(a), (b) and (c), and (2) and (3) Wis. Stats.
 3. If the transient merchant takes a sales order for the later delivery of merchandise, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement; the amount paid in advance whether full, partial, or no advance payment is made; the name, address and telephone number of the seller; the delivery or performance date; and whether a guarantee or warranty is provided and, if so, the terms thereof.
 4. If the business is being conducted from a vehicle or stationary structure, the certificate of registration or facsimile thereof shall be displayed prominently thereon. The permit issued by the clerk's office shall be displayed also.

Records. The chief of police shall report to the clerk all convictions for violation of this section, and the clerk shall note any such violation on the record of the registrant convicted.

Revocation of registration. Procedures for the revocation of the registration shall be as follows:

- (a) Registration may be revoked by the council after notice and hearing, if the registrant made any material omission or materially inaccurate statements in the application for registration; made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in transient sales; violated any provision of this section; or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in selling.
- (b) Written notice of the hearing shall be served personally on the registrant at least 72 hours prior to the time set for the hearing; such notice shall contain the time and place of the hearing and a statement of the acts upon which the hearing will be based.