

AMENDED

AGENDA

CITY OF STURGEON BAY
COMMUNITY PROTECTION & SERVICES COMMITTEE
Monday, March 29, 2021
4:30 p.m.
Council Chambers, City Hall – 421 Michigan Street

1. Roll Call
2. Adoption of Agenda
3. Approval of Minutes from March 1, 2021
4. Public Comment on Agenda Items
- ~~5. Consideration of: Tourist Rooming House Ordinance~~
6. **Consideration of: Mobile Food Vendor Ordinance**
7. Discussion of: Review of Ordinances for Possible Revision
8. Adjourn

NOTE: DEVIATION FROM THE AGENDA ORDER SHOWN MAY OCCUR

Notice is hereby given that a majority of the Common Council may be present at this meeting to gather information about a subject over which they have decision-making responsibility. If a quorum of the Common Council does attend, this may constitute a meeting of the Common Council and is noticed as such, although the Common Council will not take any formal action at this meeting.

Posted:
Date: 03/25/21
Time: 2:00 p.m.
By: SSO

Committee: Community Protection & Services
Dan Williams, Chr.
Kirsten Reeths
Seth Wiederanders

COMMUNITY PROTECTION & SERVICES COMMITTEE

March 1, 2021

A meeting of the Community Protection & Services Committee was called to order at 4:30 p.m. by Chairperson Williams in the Council Chambers, City Hall. **Roll Call:** Members Ald. Williams, Ald. Reeths and Ald. Wiederanders were present. Also present from City Departments were Mr. VanLieshout, Chief Dietman, Mr. Olejniczak, Mr. Sullivan-Robinson, Ald. Gustafson, Ald. Nault and Ald. Bacon.

Moved by Ald. Reeths, seconded by Ald. Wiederanders to adopt the following agenda:

1. Roll Call
2. Adoption of Agenda
3. Approval of Minutes from February 4, 2021
4. Public Comment on Agenda Items
5. Consideration of: Mobile Food Vendors
6. Consideration of: Tourist Rooming House Ordinance
7. Adjourn

All Ayes. Carried.

Approval of Meeting Minutes

Moved by Ald. Wiederanders, seconded by Ald. Reeths to approve the February 4, 2021 minutes. All Ayes. Carried.

Public Comment

Pam Jorns/JR Vacation Rentals: 135 N. 12th Avenue, Sturgeon Bay, WI

Mobile Food Vendors

The mobile food vendor ordinance draft was presented, and the changes were talked over. Items consisted of: including an insurance requirement, including a site plan, set-backs of 5 feet, annual inspections upon issuing of a license, and background check requirements.

Additional changes to Section 9.025 of the Mobile Food Vendor ordinance will be made, and the item will be placed on the next CPS meeting agenda for further consideration.

Tourist Rooming House Ordinance

The intent in looking at parking, garbage, noise and RV's and travel trailers parked on the property was based upon safety issues pertaining to city residents. Proposed changes to the draft ordinance was discussed.

Moved by Ald. Reeths, seconded by Ald. Wiederanders to recommend the Common Council approve the draft ordinance as presented in Chapter 9 of the City of Sturgeon Bay Municipal Code.

Moved by Ald. Wiederanders, seconded by Ald. Reeths, to adjourn the meeting of the Community Protection Services Committee. All ayes. Carried. The meeting was adjourned at 5:10 p.m.

Respectfully submitted,

Sarah Spude-Olson
Police Department Office Manager

Option 1: Create a separate mobile food vendor section.

ORDINANCE NO. _____

THE COMMON COUNCIL OF THE CITY OF STURGEON BAY, WISCONSIN DO ORDAIN AS FOLLOWS:

SECTION 1: Section 9.025 of the Municipal Code (LICENSES AND PERMITS) of the City of Sturgeon Bay, Wisconsin is hereby created as follows:

9.025 – Mobile Food Vendors

(1) *Purpose.* The purpose of this ordinance is to regulate mobile food vendors in a way that supports economic development, and fostering opportunities for small business within the City of Sturgeon Bay while maintaining the protection to public health and safety by ensuring that mobile food vendors meet local and state laws that mitigate potential health and safety risks.

(2) *Definitions.* As used in this section, the following shall mean:

(a) *Food Vending Vehicle:* Any motorized vehicle, trailers, and carts used to sell food or beverages by a mobile food vendor.

(b) *Mobile Food Vendor:* Any person who dispenses food or beverages from a food vending vehicle for immediate service and/or consumption.

(c) *Public Property:* Any property owned by the City of Sturgeon Bay or the right-of-way of any street or highway.

(d) *Person:* Any individual, group of individuals, firm, partnership, company, corporation, trustee, association, or any public or private entity and includes the individual or entities employees or agents.

(e) *Sell:* To transfer or exchange for value, to expose or offer for sale or exchange, or to procure, store, keep or have in one's possession or control for the purpose of selling.

(3) *General Requirements.*

(a) No person may operate as a mobile food vendor in the City of Sturgeon Bay without being registered as required under section 9.02.

(b) A food vendor license from the Department of Agriculture, Trade and Consumer Protection is required.

(c) A separate transient merchant permit shall be required for each food vending vehicle operated by a mobile food vendor.

(d) Mobile food vendors shall follow any applicable state and local laws, including but not limited to all fire codes, zoning codes, occupational tax codes, and any other applicable state and local code provisions.

- (e) Mobile food vendors are not allowed on public property unless approved by the Common Council.
- (f) A site plan must be provided that illustrates mobile food vendor/food vending vehicle location(s) with setbacks, access, seating, bathroom facilities, stored equipment and service area on the property.
- (g) Mobile food vendors shall be inspected annually upon issuance of a transient merchant license by the Sturgeon Bay Fire Department and the Department of Agriculture, Trade and Consumer Protection regarding health and safety related issues.
- (h) There shall be no onsite sales of liquors or fermented malt beverages without obtaining a license as required elsewhere in this chapter.
- (i) Flashing or blinking lights, or strobe lights are prohibited.
- (j) Public address (PA) systems are prohibited.
- (k) Mobile food vendors must have and maintain general business liability insurance.

(4) Operation Standards.

- (a) Mobile food vendors are prohibited from operating from 10:00 p.m. to 6:00 a.m. Sunday to Thursday and 12:00 a.m. to 6:00 a.m. Friday and Saturday.
- (b) Seating and tables, if provided, shall not block ingress, egress or fire exits from or to the food vending vehicle or any other structure on the property.
- (c) Mobile food vendors must provide at least one onsite, conveniently located waste receptacle for customers. Garbage and refuse must be kept in durable, disposable or cleanable, insect/rodent proof containers that do not leak and do not absorb liquids. Mobile food vendors shall be responsible for the removal and disposal of all garbage and refuse within the immediate area around the food vending vehicle.
- (d) Bathroom facilities must be provided onsite unless public bathrooms are located within 150 feet of the mobile food vendor site or a written agreement has been provided from a business from an adjoining property allowing the use of their bathroom facilities.
- (e) Food vending vehicles must be setback at least five (5) feet from all property lines, buildings, and other food vending vehicles.
- (f) Food vending vehicles and the surrounding site they occupy must be maintained in good operating order and visual appearance.

SECTION 2: Section 9.02 of the Municipal Code of the City of Sturgeon Bay, Wisconsin is hereby repealed and recreated as follows:

9.02 - Direct sellers, peddlers, transient merchants and seasonal merchants.

- (1) *Registration required.* No direct seller shall engage in direct sales in the city without being registered.
- (2) *Definitions.* In this subsection the following shall mean:
- (a) *Direct seller.* Any individual who for himself/herself, or for a partnership, association or corporation, sells goods or takes sales orders for the later delivery of goods at any location other than his/her permanent business place or residence, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.
 - (b) *Permanent merchant.* A direct seller who, for at least one year prior to the consideration of the application of this section to such merchant:
 - 1. Has continuously operated an established place of business within the city; or
 - 2. Has continuously resided in the city and now does business from his/her residence.
 - (c) *Goods.* Personal property of any kind, including goods provided incidental to services offered or sold.
 - (d) *Charitable organization.* Any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.
 - (e) *Clerk.* The city clerk.
 - (f) *Peddler.* A person who goes from place to place within the city offering for sale property which he carries with him, including a vendor who distributes products to regular customers on an established route.
 - (g) *Transient merchant.* Any individual, partnership, corporation, or limited liability company who engages in the retail sale of merchandise at any place, other than house to house, in this city temporarily, and who does not intend to become a permanent merchant in the city.
 - (h) *Seasonal merchant.* Any individual, partnership, corporation, or limited liability company who engages in the retail sale of merchandise at any place, other than house to house, is in this city seasonally, and who does not intend to become a permanent merchant in the city.
- (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 goods at wholesale to dealers in such goods;
 - (c) Any person selling agricultural products which such person has grown;
 - (d) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in their regular course of business;
 - (e) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis and in which the buyer has initiated contact with and specifically requested a home visit by such person;
 - (f) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods;

- (g) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;
 - (h) Any employee, officer or agent of a school, nonprofit or charitable organization who engages in direct sales for or on behalf of the organization, provided that there is submitted to the clerk proof that the organization is registered under § 440.41, Wis. Stats. Any charitable organization not so registered, or which is exempt from the statute's registration requirements, shall be required [to register] under this section;
 - (i) 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 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 is conducting business, or proof that such person has conducted such business in the city for at least one year prior to the date complaint was made;
 - (j) Any person selling goods on public property in conjunction with government approved special events such as the farmers market, art fairs, county fair, or festivals or events of the Sturgeon Bay Visitor and Convention Bureau.
- (4) *Registration Application.*
- (a) Applicants for registration must complete and return to the clerk a registration form furnished by the clerk which shall require the following information:
 - 1. Name, permanent address and telephone number, and temporary address, if any;
 - 2. Age, height, weight, and color of hair and eyes;
 - 3. Names, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;
 - 4. Temporary address and telephone number from which business shall be conducted;
 - 5. Nature of business to be conducted and a brief description of the goods offered and any services offered;
 - 6. Proposed method of delivery of goods, if applicable;
 - 7. Make, model and license number of any vehicle to be used by the applicant in the conduct of his/her business;
 - 8. Last cities, villages, towns, not to exceed three, where the applicant conducted similar business;
 - 9. Place where the applicant can be contacted for at least seven days after leaving the city;
 - 10. Statement as to whether the applicant has been convicted of any crime or ordinance violation related to his/her transient merchant business within the last five years, the nature of the offense and place of conviction.
 - (b) Applicants shall present to the clerk for examination:
 - 1. A driver's license or other proof of identity as may be reasonably required;

2. A state certificate of examination and approval from the sealer of weights and measures where the applicant's business requires use of weighing and measuring devices approved by state authorities;
 3. A state health officer's certificate where the applicant's business involves the handling of food or clothing and is required to be certified under state law, such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for license is made.
- (c) At the time the **direct seller**, transient merchant or seasonal merchant registration **form** is returned, an amount set by the common council for the investigation fee shall be paid to the city clerk. Each employee of the seasonal merchant **applicant** must register with the city clerk's office and pay the investigation fee one time during the seasonal merchant permit **registration** period. ~~At the time the direct seller or peddler registration is returned, an amount set by the common council for the investigation fee shall be paid to the city clerk to cover the cost of processing the registration.~~
 - (d) The applicant shall sign a statement appointing the clerk his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with his/her direct sales activities in the event the applicant cannot, after reasonable effort, be served personally.
 - ~~(e) Upon payment of the fee and the signing of the statement, the clerk shall register the applicant as a seller, peddler, transient merchant, or permanent merchant and the date of entry. The registration shall be valid for thirty days from the date of entry, if approved after investigation.~~
 - ~~(f) Upon payment of the appropriate fee and signing of the application, the clerk shall register the applicant as a seasonal merchant. The registration shall be valid for the selected number of days from date of entry, if approved after investigation.~~
- (5) *Investigation **and Registration**.*
 - (a) Upon receipt of each applicant, the clerk shall refer it immediately to the chief of police, who shall make an investigation of the statements made in the registration.
 - (b) The clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, that the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of paragraph (4)(b) above.
 - (c) Upon successful investigation and determination that the application conforms to the applicable requirements, the clerk shall register the applicant as a direct seller, transient merchant, or seasonal merchant and the date of entry. The registration for a direct seller or transient merchant shall be valid for not more than thirty days from the date of entry. The registration for the seasonal merchant shall be valid for not more than 180 days from the date of entry.**
 - (6) *Appeals.* Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the council, or, if none has been adopted, under the provisions of §§ 68.07—68.16, Wis. Stats.

(7) *Regulation of direct sellers.*

(a) *Prohibited practices.*

1. No direct seller, transient merchant, peddler or seasonal merchant shall sell merchandise or attempt to sell merchandise in the City of Sturgeon Bay without a current registration obtained from the clerk hereunder. Each sale or attempted sale shall constitute a separate violation.
2. A direct seller 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.
3. A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered shall actually be used for the charitable purpose for which the organization is soliciting. Such portion shall be expressed as a percentage of the sale of the price of goods.
4. No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
5. No direct seller 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.
6. No direct seller shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

(b) *Disclosure requirements.*

1. After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of goods or services he/she offers to sell.
2. If any sale of goods is made by a direct seller or any sales order for the later delivery of goods 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 § 423.203, Wis. Stats.; the seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of § 423.203(1)(a), (b), and (c) and (3), Wis. Stats.
3. If the direct seller takes a sales order for the later delivery of goods, 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.

(c) *Additional requirements of seasonal and transient merchants operating from a fixed location.*

1. The operation and location shall comply with all pertinent zoning requirements, including parking regulations.
2. No business shall be conducted on any city street right-of-way, unless permission has been granted through the common council.
3. If the location is on property not owned by the vendor, an authorization for the property's use by said vendor shall be signed by the property owner, covering the license period, and supplied to the city clerk at the time of license application.
4. Signs shall be in conformance with the city's sign code (Chapter 27 of this Municipal Code).
5. A permit shall be issued measuring at least 4-5 1.3 square feet in size and shall be posted in clear sight of the general public. The permit number, business name, permanent mailing address, and other pertinent contact information shall appear on the permit.
6. Mobile food vendors shall comply with the requirements of section 9.025 of this code.

(8) *Record of violations.* 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 records of the registrant convicted.

(9) *Revocation of registration.*

- (a) Registration shall be revoked by the council after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive, or misleading statement or representation in the course of engaging in direct 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 direct 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 hearing and a statement of the facts upon which the hearing shall be based.

(10) *Penalty for violation.* Any person convicted of violating any provisions of section 9.02 or any subsection thereof shall forfeit not less than \$50.00 nor more than \$250.00 for each violation, plus the costs of prosecution and reasonable attorney fees. Each violation shall constitute a separate offense.

SECTION 3: This ordinance shall take effect the day after publication.

Approved:

David J. Ward; Mayor

Attest:

Stephanie L. Reinhardt
City Clerk

Option 2: Revise the existing section (9.02) to included mobile food vendor regulations.

ORDINANCE NO. _____

THE COMMON COUNCIL OF THE CITY OF STURGEON BAY, WISCONSIN DO ORDAIN AS FOLLOWS:

SECTION 1: Section 9.02 of the Municipal Code (LICENSES AND PERMITS) of the City of Sturgeon Bay, Wisconsin is hereby repealed and recreated as follows:

9.02 - Direct sellers, peddlers, transient merchants and seasonal merchants.

- (1) *Registration required.* No direct seller shall engage in direct sales in the city without being registered.
- (2) *Definitions.* In this subsection the following shall mean:
 - (a) *Direct seller.* Any individual who for himself/herself, or for a partnership, association or corporation, sells goods or takes sales orders for the later delivery of goods at any location other than his/her permanent business place or residence, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.
 - (b) *Food Vending Vehicle.* Any motorized vehicle or trailers and carts used to sell food or beverages by a mobile food vendor.
 - (c) *Goods.* Personal property of any kind, including goods provided incidental to services offered or sold.
 - (d) *Charitable organization.* Any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.
 - (e) *Clerk.* The city clerk.
 - (f) *Mobile Food Vendor.* Any person who dispenses food or beverages from a food vending vehicle for immediate service and/or consumption. A mobile food vender is a type of transient merchant and is regulated as such under the Sturgeon Bay Municipal code.
 - (g) *Peddler.* A person who goes from place to place within the city offering for sale property which he carries with him, including a vendor who distributes products to regular customers on an established route.
 - (h) *Permanent merchant.* A direct seller who, for at least one year prior to the consideration of the application of this section to such merchant:
 1. Has continuously operated an established place of business within the city; or
 2. Has continuously resided in the city and now does business from his/her residence.
 - (i) *Person.* Any individual, group of individuals, firm, partnership, company, corporation, trustee, association, or any public or private entity and includes the individual or entities employees or agents.
 - (j) *Public Property.* Any property owned by the City of Sturgeon Bay or the right-of-way of any street or highway.

- (k) *Seasonal merchant.* Any individual, partnership, corporation, or limited liability company who engages in the retail sale of merchandise at any place, other than house to house, is in this city seasonally, and who does not intend to become a permanent merchant in the city.
 - (l) *Sell.* To transfer or exchange for value, to expose or offer for sale or exchange, or to procure, store, keep or have in one's possession or control for the purpose of selling.
 - (m) *Transient merchant.* Any individual, partnership, corporation, or limited liability company who engages in the retail sale of merchandise at any place, other than house to house, in this city temporarily, and who does not intend to become a permanent merchant in the city.
- (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 goods at wholesale to dealers in such goods;
 - (c) Any person selling agricultural products which such person has grown;
 - (d) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in their regular course of business;
 - (e) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis and in which the buyer has initiated contact with and specifically requested a home visit by such person;
 - (f) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods;
 - (g) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;
 - (h) Any employee, officer or agent of a school, nonprofit or charitable organization who engages in direct sales for or on behalf of the organization, provided that there is submitted to the clerk proof that the organization is registered under § 440.41, Wis. Stats. Any charitable organization not so registered, or which is exempt from the statute's registration requirements, shall be required [to register] under this section;
 - (i) 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 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 is conducting business, or proof that such person has conducted such business in the city for at least one year prior to the date complaint was made;
 - (j) Any person selling goods on public property in conjunction with government approved special events such as the farmers market, art fairs, county fair, or festivals or events of the Sturgeon Bay Visitor and Convention Bureau.
- (4) *Registration Application.*
- (a) Applicants for registration must complete and return to the clerk a registration form furnished by the clerk which shall require the following information:

1. Name, permanent address and telephone number, and temporary address, if any;
 2. Age, height, weight, and color of hair and eyes;
 3. Names, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;
 4. Temporary address and telephone number from which business shall be conducted;
 5. Nature of business to be conducted and a brief description of the goods offered and any services offered;
 6. Proposed method of delivery of goods, if applicable;
 7. Make, model and license number of any vehicle to be used by the applicant in the conduct of his/her business;
 8. Last cities, villages, towns, not to exceed three, where the applicant conducted similar business;
 9. Place where the applicant can be contacted for at least seven days after leaving the city;
 10. Statement as to whether the applicant has been convicted of any crime or ordinance violation related to his/her transient merchant business within the last five years, the nature of the offense and place of conviction.
- (b) Applicants shall present to the clerk for examination:
1. A driver's license or other proof of identity as may be reasonably required;
 2. A state certificate of examination and approval from the sealer of weights and measures where the applicant's business requires use of weighing and measuring devices approved by state authorities;
 3. A state health officer's certificate where the applicant's business involves the handling of food or clothing and is required to be certified under state law, such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for license is made.
- (c) At the time the **direct seller**, transient merchant or seasonal merchant registration **form** is returned, an amount set by the common council for the investigation fee shall be paid to the city clerk. Each employee of the seasonal merchant **applicant** must register with the city clerk's office and pay the investigation fee one time during the seasonal merchant permit **registration** period. ~~At the time the direct seller or peddler registration is returned, an amount set by the common council for the investigation fee shall be paid to the city clerk to cover the cost of processing the registration.~~
- (d) The applicant shall sign a statement appointing the clerk his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with his/her direct sales activities in the event the applicant cannot, after reasonable effort, be served personally.
- ~~(e) Upon payment of the fee and the signing of the statement, the clerk shall register the applicant as a seller, peddler, transient merchant, or permanent merchant and the date of entry. The registration shall be valid for thirty days from the date of entry, if approved after investigation.~~

~~(f) Upon payment of the appropriate fee and signing of the application, the clerk shall register the applicant as a seasonal merchant. The registration shall be valid for the selected number of days from date of entry, if approved after investigation.~~

(5) *Investigation and Registration.*

(a) Upon receipt of each applicant, the clerk shall refer it immediately to the chief of police, who shall make an investigation of the statements made in the registration.

(b) The clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, that the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of paragraph (4)(b) above.

(c) Upon successful investigation and determination that the application conforms to the applicable requirements, the clerk shall register the applicant as a direct seller, transient merchant, or seasonal merchant and the date of entry. The registration for a direct seller or transient merchant shall be valid for not more than thirty days from the date of entry. The registration for the seasonal merchant shall be valid for not more than 180 days from the date of entry.

(6) *Appeals.* Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the council, or, if none has been adopted, under the provisions of §§ 68.07—68.16, Wis. Stats.

(7) *Regulation of direct sellers.*

(a) *Prohibited practices.*

1. No direct seller, transient merchant, peddler or seasonal merchant shall sell merchandise or attempt to sell merchandise in the City of Sturgeon Bay without a current registration obtained from the clerk hereunder. Each sale or attempted sale shall constitute a separate violation.
2. A direct seller 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.
3. A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered shall actually be used for the charitable purpose for which the organization is soliciting. Such portion shall be expressed as a percentage of the sale of the price of goods.
4. No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

5. No direct seller shall make any loud noises or use any sound amplifying device **such as public address (PA) systems** to attract customers if the noise produced is capable of being plainly heard outside a 100-foot radius of the source.

6. No direct seller shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

7. Flashing or blinking lights, or strobe lights are prohibited.

(b) *Disclosure requirements.*

1. After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of goods or services he/she offers to sell.

2. If any sale of goods is made by a direct seller or any sales order for the later delivery of goods 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 § 423.203, Wis. Stats.; the seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of § 423.203(1)(a), (b), and (c) and (3), Wis. Stats.

3. If the direct seller takes a sales order for the later delivery of goods, 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.

(c) *Additional requirements of seasonal and transient merchants operating from a fixed location.*

1. The operation and location shall comply with all ~~pertinent zoning requirements, including parking regulations.~~ **applicable state and local laws, including but not limited to all fire codes, zoning codes, occupational tax codes, and any other applicable state and local code provisions.**

2. No business shall be conducted on any city street right-of-way **or public property**, unless permission has been granted through the common council.

3. If the location is on property not owned by the vendor, an authorization for the property's use by said vendor shall be signed by the property owner, covering the license period, and supplied to the city clerk at the time of license application.

4. Signs shall be in conformance with the city's sign code (Chapter 27 of this Municipal Code).

5. A permit shall be issued measuring at least ~~4.5~~ **1.3** square feet in size and shall be posted in clear sight of the general public. The permit number, business name, permanent mailing address, and other pertinent contact information shall appear on the permit.

(d) Additional requirements for Mobile Food Vendors.

1. A separate transient merchant permit shall be required for each food vending vehicle operated by a mobile food vendor.

2. A site plan must be provided that illustrates mobile food vendor/food vending vehicle location(s) with setbacks, access, seating, bathroom facilities, stored equipment and service area on the property.
 3. Mobile food vendors shall be inspected annually upon issuance of a transient merchant license by the Sturgeon Bay Fire Department and the Department of Agriculture, Trade and Consumer Protection regarding health and safety related issues.
 4. Mobile food vendors are prohibited from operating from 10:00 p.m. to 6:00 a.m. Sunday to Thursday and 12:00 a.m. to 6:00 a.m. Friday and Saturday.
 5. Seating and tables, if provided, shall not block ingress, egress or fire exits from or to the food vending vehicle or any other structure on the property.
 6. Mobile food vendors must provide at least one onsite, conveniently located waste receptacle for customers. Garbage and refuse must be kept in durable, disposable or cleanable, insect/rodent proof containers that do not leak and do not absorb liquids. Mobile food vendors shall be responsible for the removal and disposal of all garbage and refuse within the immediate area around the food vending vehicle.
 7. Bathroom facilities must be provided onsite unless public bathrooms are located within 150 feet of the mobile food vendor site or a written agreement has been provided from a business from an adjoining property allowing the use of their bathroom facilities.
 8. Food vending vehicles must be setback at least five (5) feet from all property lines, buildings, and other food vending vehicles.
 9. Food vending vehicles and the surrounding site they occupy must be maintained in good operating order and visual appearance.
 10. Mobile food vendors must have and maintain general business liability insurance.
- (8) *Record of violations.* 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 records of the registrant convicted.
- (9) *Revocation of registration.*
- (a) Registration shall be revoked by the council after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive, or misleading statement or representation in the course of engaging in direct 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 direct 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 hearing and a statement of the facts upon which the hearing shall be based.
- (10) *Penalty for violation.* Any person convicted of violating any provisions of section 9.02 or any subsection thereof shall forfeit not less than \$50.00 nor more than \$250.00 for each violation, plus the costs of prosecution and reasonable attorney fees. Each violation shall constitute a separate offense.

SECTION 2: The ordinance shall take effect the day after publication.

Approved:

David J. Ward
Mayor

Attest:

Stephanie L. Reinhardt
City Clerk