



VILLAGE OF KIMBERLY PERMIT APPLICATION FOR: SOLICITORS, PEDDLERS, CANVASSERS & TRANSIENT MERCHANTS

APPLICANT - \$50.00 ASSISTANT - \$0.00 Each must fill out an application.
 Fee covers 1 solicitor and 1 assistant and is non-refundable.

Picture # _____ COPY of Driver's License

SECTION 1 – BUSINESS INFORMATION

Business Name		Owner Name	
Street Address		City	State & ZIP
Type of Merchandise or Service			Business Phone Number
Has the business applied for a permit in Kimberly before?		If yes, what year?	
List the last 2 communities this business had employees working:			

SECTION 2 – Circle One **APPLICANT** OR **ASSISTANT** INFORMATION.

NOTE: If minors, proof of State Street Trade Permit must be provided pursuant to WI ACT 113

Name (Last, First, MI)		Maiden Name / AKA	
Home Address		City	State & ZIP
Driver's License Number		State that issued license	Social Security Number
Date of Birth	Sex	Home Phone	Cell Phone
Site Location or Method of Delivery:			
Vehicle Identification: Make & Color		License Plate Number & State	Insurance Co. & Policy #
Have you applied for a permit in Kimberly before?		If yes, what year?	
List the last 2 communities you've held a permit in:			
List any crime or ordinance violations you've had in the last 5 years. Additional listed on back. <input type="checkbox"/>		Status (Pending, Guilty, Dismissed)	Location & Date/Year

I, the undersigned, affirm that I have given complete and true answers and understand that my past record will be part of this application. I hereby make application to the local governing body of the Village of Kimberly, County of Outagamie, Wisconsin, for a "Solicitors, Peddlers, Canvassers, & Transient Merchants Permit".

I certify that I am familiar with the laws, ordinances and regulations, and I hereby agree, if granted said license, to obey all provisions of said laws. I understand that any false information made as part of this application may be cause for denial.

(Notary required if NOT returning application in person.)
 Subscribed and sworn before me
 this ____ day of _____, 20____

Applicant's Signature *Date*

Staff Signature as Witness *Date*

Notary Public Signature
 My Commission Expires: _____

APPLICANT NAME: _____

Background Check Completed by: _____ Date: _____

FVMPD recommends: Approval Denial due to: _____

Kimberly Village Board: Approved Denied this application at its Board Meeting on _____

for the dates from _____ to _____ (6 months)

Clerk / Deputy Clerk's Signature: _____

Additional crime or ordinance violations you've had in the last 5 years that didn't fit on front page.	Status (Pending, Guilty, Dismissed)	Location & Date/Year



**STATEMENT OF ACKNOWLEDGEMENT FOR:
VILLAGE OF KIMBERLY SOLICITORS, PEDDLERS, CANVASSERS, &
TRANSIENT MERCHANTS**

I, _____, or a representative, has applied for or received a permit to solicit in the Village of Kimberly for the dates of: _____.

I have received a copy of the Village of Kimberly’s ordinance for direct sellers permits (Chapter 233), explaining the rules and regulations of soliciting in the Village of Kimberly.

By signing this form, I agree that these rules and regulations are understood and that I, and any representative(s), will abide by ALL rules and regulations. I understand that if I, or my representative(s), fail to abide by these rules and regulations, that my, or my representatives’, permit(s) may be revoked.

Specifically, I acknowledge the following conditions:

1. Soliciting will only occur between the hours of 8:00 a.m. and 9:00 p.m.
2. A Kimberly issued solicitor’s photo badge will be visible while soliciting.
3. No form of “pressure tactics’ will be used. If a resident indicates they are not interested in the product, all sales tactics will cease.
4. I agree to produce this Statement of Acknowledgement to any resident or law enforcement officer upon request.
5. Neither I nor my employees will mislead any resident regarding the product or services that is being sold or solicited.
6. Any valid and substantiated complaint by a resident against the business or its representative, will result in revocation of the permit(s).
7. Failure to provide all requested information on the application may result in the denial of my permit.
8. Any vehicle or driver used for soliciting purposes will be properly licensed and insured.

FURTHERMORE, I HEREBY APPOINT the Village of Kimberly Administrator as my agent to accept service of process in any civil action brought against me arising out of any sale or service performed by me in connection with my direct sales activities, in the event I cannot, after reasonable effort be served personally.

Business Owner or Applicant Signature

STATE OF WISCONSIN
COUNTY OF OUTAGAMIE

_____, being first duly sworn on oath, deposes and says that he/she is the applicant named in the “Solicitors, Peddlers, Canvassers, & Transient Merchants Permit” application, and that he/she has read (or had read) each of the statements above and fully acknowledges the same on this _____ day of _____, 20____

Notary Public Signature
My Commission Expires: _____

Copy given to Applicant _____ (date given)

Chapter 233. Direct Sellers

[HISTORY: Adopted by the Village Board of the Village of Kimberly 10-3-1988 as Title 7, Ch. 4, of the 1988 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Flea markets, farmers' markets and garage sales — See Ch. 277.

Nuisances — See Ch. 364.

Peace and good order — See Ch. 377.

Streets and sidewalks — See Ch. 430, especially § 430-14.

Weights and measures — See Ch. 476.

§ 233-1. Registration required.

It shall be unlawful for any direct seller to engage in direct sales within the Village of Kimberly without being registered for that purpose as provided herein.

§ 233-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CHARITABLE ORGANIZATION

Includes any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such, but shall not include religious organizations.

DIRECT SELLER

Any individual who, for him/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 the permanent business place or residence of said individual, partnership, association or corporation, 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.

GOODS

Includes personal property of any kind and shall include goods provided incidental to services offered or sold.

PERMANENT MERCHANT

A direct seller who, for at least one year prior to the consideration of the application of this chapter to said merchant:

A. Has continuously operated an established place of business in this Village; or

B. Has continuously resided in this Village and now does business from his/her residence.

PERSON

All humans of any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.

§ 233-3. Exemptions.

The following shall be exempt from all provisions of this chapter:

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 his 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 said person.

F. 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.

G. Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods.

H. 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.

I. Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Village Administrator proof that such charitable organization is registered under § 440.42, Wis. Stats. Any charitable organization not registered under § 440.42, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this chapter.

[Amended 3-5-2012 by Ord. No. 3.-2012]

J. Any person who claims to be a permanent merchant but against whom complaint has been made to the Village Administrator that such person is a transient merchant, provided that there is submitted to the Village Administrator 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 this Village for at least one year prior to the date complaint was made.

§ 233-4. Registration.

A. Applicants for registration must complete and return to the Village Administrator a registration form furnished by the Administrator which shall require the following information:

- (1) Name, permanent address and telephone number, and temporary address, if any;
- (2) Height, weight, color of hair and eyes, and date of birth;
- (3) Name, 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 will be conducted, if any;
- (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 and towns, not to exceed three, where the applicant conducted similar business just prior to making this registration.
- (9) Place where the applicant can be contacted for at least seven days after leaving this Village; and
- (10) Statement as to whether applicant has been convicted of any crime or ordinance violation related to the applicant's transient merchant business within the last five years, the nature of the offense and the place of conviction.

B. Documentation. Applicants shall present to the Village Administrator for examination:

- (1) A driver's license or some 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 an applicant's business requires use of weighing and measuring devices approved by state authorities; and
- (3) A state health officer's certificate where an applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that the applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for registration is made.

C. Registration fee.

[Amended 3-5-2012 by Ord. No. 3-2012]

(1) At the time the registration is returned, a fee shall be paid to Municipal Clerk to cover the cost of processing said registration. Each and every member of a group must file a separate registration form. The fee for registration as a direct seller shall be as set in the Village Fee Schedule. Transient merchants/direct sellers may employ one assistant without payment of an additional registration fee, but such persons must comply with the other provisions of this section.

[Amended 4-17-2017 by Ord. No. 5-2017]

(2) The applicant shall sign a statement appointing the Village Administrator 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 the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.

(3) Upon payment of said fee and the signing of said statement, the Fox Valley Metro Police Department shall register the applicant as a direct seller and date the entry.

(4) The registration shall be valid for a period of six months from the date of approval unless revoked under § 233-9.

[Added 4-17-2017 by Ord. No. 5-2017]

§ 233-5. Investigation.

A. Upon receipt of each application, the Village Administrator may refer it immediately to the Chief of Police, who may make and complete an investigation of the statements made in such registration.

B. If the Chief of Police determines from his/her investigation of said application that the interests of the Village or of inhabitants of the Village require protection against possible misconduct of the registrant or that the applicant is otherwise qualified but, due to causes beyond his/her control, is unable to supply all of the information required by this chapter, he/she may require the applicant to file with the Village Administrator a bond in the sum of \$500 with surety running to the Village, conditioned that he/she will fully comply with the ordinances of the Village and laws of the state relating to peddlers, canvassers or transient merchants and guaranteeing to any citizen of the Village of Kimberly doing business with him that the property purchased will be delivered according to the representations of applicant, provided that action to recover on any such bond shall be commenced within six months after the expiration of the registration of the principal.

[Amended 3-5-2012 by Ord. No. 3-2012]C.

The Village Administrator 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 § 233-4B above.

§ 233-6. Appeal.

Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Village Board or, if none has been adopted, under the provisions of §§ 68.07 through 68.16, Wis. Stats.

§ 233-7. Regulation of direct sellers.

A. Prohibited practices.

(1) A direct seller shall be prohibited from calling at any dwelling or other place between the hours of 9:00 p.m. and 8:00 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 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 visit, his identity or the identity of the organization he represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the goods.

(3) 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.

(4) 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 one-hundred-foot radius of the source.

(5) No direct seller shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

B. Disclosure requirements.

[Amended 4-17-2017 by Ord. No. 5-2017]

(1) All direct sellers and their assistants shall display a Village of Kimberly issued photo identification badge on their person in a visible location while soliciting.

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

(3) 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 said transaction if it involves the extension of credit or is a cash transaction of more than \$25, in accordance with the procedure as set forth in § 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), (2) and (3), Wis. Stats.

(4) If the direct seller takes a sales order for the later delivery of goods, he 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.

§ 233-8. Records.

The Chief of Police shall report to the Village Administrator all convictions for violation of this chapter, and the Village Administrator shall note any such violation on the record of the registrant convicted.

§ 233-9. Revocation of registration.

A. Registration may be revoked by the Village Board 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 chapter 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 acts upon which the hearing will be based