

ORDINANCE NO. 10822 (N.S.)
MEETING DATE: DECEMBER 14, 2022 (02)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY REGULATORY CODE
RELATING TO SOLICITATIONS

The Board of Supervisors of the County of San Diego ordains as follows:

TITLE 2. DIVISION 1. CHAPTER 2. COMMUNITY EVENTS

SEC. 21.201. DEFINITIONS.

- (a) "Community event" means an event sponsored by a nonprofit organization or any agency of the federal, State or local government that takes place at a fixed location for four consecutive days or less and is open to the general public.
- (b) "Nonprofit organization" means a nonprofit organization that is exempt from taxation pursuant to sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, 23701t, or 23701w of the California Revenue and Taxation Code.
- (c) "Temporary Agritourism Community Event" means a temporary, publicly accessible for-profit, event that is supplemental to permitted Agricultural Tourism activities, as allowed by Zoning Ordinance Section 6157b.

(Added by Ord. No. 7781 (N.S.), effective 7-24-90; amended by Ord. No. 7815 (N.S.), effective 10-25-90; amended by Ord. No. 8654 (N.S.), effective 4-18-96; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10658 (N.S.), effective 3-13-20)

Cross reference(s)--Definitions, § 12.101 et seq.

TITLE 2. DIVISION 1. CHAPTER 5. SOLICITATIONS*

*Note--Chapter 5, ITINERANT VENDORS, consisting of Sections 21.501--21.511, repealed and new Chapter 5, SOLICITORS, consisting of Sections 21.501--21.512, added by Ord. No. 5200 (N.S.), effective 8-10-78. Title amended to read SOLICITATIONS by Ord. No. 5493 (N.S.), effective 5-24-79.

Cross reference(s)--Soliciting persons in vehicles, § 36.601 et seq.; soliciting, selling and advertising in county parks prohibited, § 41.136.

ARTICLE 1. SOLICITORS

SEC. 21.501. DEFINITIONS.

For the purposes of this article the following definitions shall apply:

- (a) A "certified farmer's market" means a location approved by the San Diego County Agricultural Commissioner where a "certified producer" may sell California agricultural products directly to

consumers.

(b) A "certified producer" means a California farmer who is authorized by any county agricultural commissioner to sell agricultural products grown on land the producer controls, at a "certified farmer's market."

(c) "Farmers' market operator" means the lead individual organizing or directing a certified farmers' market in the unincorporated area.

(d) "Goods" means any article of commerce, including merchandise, foodstuffs and publications other than "newspapers."

(e) "Interviewer" is a person who visits one or more residences or places of business or sets up a temporary location in a public place, to gather information through personal contact with individuals.

(f) "Newspaper" means a publication issued at regular and usually close intervals, especially daily or weekly, and commonly containing news, comment, features, and advertising.

(g) "Non-certified farmers' market vendor" means a person who is selling new/first- hand goods or services at or adjacent to a "certified farmers' market" and are not "certified producers." Non-certified farmers' market vendors include, but are not limited to, persons selling arts and crafts, processed food, hand-made clothing, etc.

(h) "Services" means any act performed for the benefit of another under some arrangement or agreement whereby such act was to have been performed.

(i) "Solicitor" means a person who travels from place to place, to public places or events to which the public is admitted, to sell, offer for sale, deliver or give away, any "services" or "goods" or any item redeemable for goods, for immediate or future delivery. A "solicitor" also includes an "interviewer" and "farmers' market operator." For the purpose of this article, "solicitor" does not include a person who only contacts individuals by telephone or a "non-certified farmers' market vendor".

(j) "Solicitor's license" means the license authorizing a person to engage in the activities as a "solicitor" in the unincorporated areas of the County.

(k) "Temporary stand" means a table, booth, cart, vehicle or other portable or mobile device from which a "solicitor" sells and/or distributes goods.

(Amended by Ord. No. 7603 (N.S.), effective 4-13-89; amended by Ord. No. 7666 (N.S.), effective 9-19-89; Ord. No. 7670 (N.S.), adopted 9-26-89, effective 10-26-89, supersedes Ord. No. 7666; amended by Ord. No. 7898 (N.S.), effective 5-30-91; amended by Ord. No. 9818 (N.S.) effective 1-12-07; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10312 (N.S.), effective 2-6-14; amended by Ord. No. 10330 (N.S.), effective 5-1-14)

Cross reference(s)--Definitions, § 12.101 et seq.

SEC. 21.502. SOLICITOR'S LICENSE REQUIRED.

It shall be unlawful for a person, unless exempt under section 21.506, to engage in the activities of a solicitor in the unincorporated area of the County without having obtained a solicitor's license from the Issuing Officer.

(Amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10330 (N.S.), effective 5-1-14)

SEC. 21.503. TERM OF LICENSE.

A solicitor's license shall be for a one year term unless the applicant requests a shorter term or the Issuing Officer in the exercise of discretion determines the license should be for less than one year. A solicitor's license may be renewed for one year within 30 days before it expires.

(Amended by Ord. No. 5493 (N.S.), effective 5-24-79; amended by Ord. No. 5737 (N.S.), effective 5-29-80; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8049 (N.S.), effective 5-7-92; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10330 (N.S.), effective 5-1-14)

Cross reference(s)--Sheriff's regulatory fees, § 21.1901.

SEC. 21.504. ADDITIONAL REASONS FOR APPLICATION DENIAL.

(a) A solicitor's license is subject to sections 21.101-21.117 and any additional conditions in this chapter. In addition to the grounds for denying a new or renewal license provided in sections 21.108 and 21.109 respectively, the Issuing Officer may deny a new or renewal license if the Issuing Officer determines:

(1) The applicant has been convicted of an offense requiring the applicant to register as a sex offender under Penal Code section 290 and notwithstanding the time that has elapsed since the conviction the applicant presents a threat to the safety of members of the public with whom a solicitor would likely come into contact.

(2) The applicant is addicted to any substance prohibited by the Uniform Controlled Substances Act (Health and Safety Code Section 11000 et seq.) unless the applicant is enrolled and successfully participating in a drug treatment program approved by the Court.

(b) If the applicant intends to sell or deliver any food and/or beverage item, the Issuing Officer shall not issue the applicant a solicitor's license unless the applicant has been issued a food facility permit from the County Department of Environmental Health and Quality. If the applicant intends to set up a temporary stand to sell or deliver any food and/or beverage the Issuing Officer shall not issue the applicant a solicitor's license until the applicant has also obtained clearance from the County Department of Planning and Development Services that the temporary food stand is not prohibited by County zoning regulations.

(Amended by Ord. No. 7603 (N.S.), effective 4-13-89; amended by Ord. No. 7666 (N.S.), effective 9-19-89; Ord. No. 7670 (N.S.), adopted 9-26-89, effective 10-26-89, supersedes Ord. No. 7666; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10224 (N.S.), effective 10-25-12; amended by Ord. No. 10330 (N.S.), effective 5-1-14; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

SEC. 21.505. IDENTIFICATION CARD.

If the Issuing Officer grants a solicitor's license the Issuing Officer shall also issue an identification card that shows the licensee's name, address, physical description and the nature of the merchandise the licensee is authorized to sell or deliver and a current photograph of the licensee. The identification card shall show the expiration date of the license and shall contain a photograph of the licensee. The licensee shall prominently display the identification card on the outside front of his clothing while engaged in the activity for which he received the solicitor's license. The licensee shall provide the identification card to

any peace officer who requests to examine it.

(Amended by Ord. No. 5493 (N.S.), effective 5-24-79; amended by Ord. No. 7603 (N.S.), effective 4-13-89; amended by Ord. No. 7666 (N.S.), effective 9-19-89; Ord. No. 7670 (N.S.), adopted 9-26-89, effective 10-26-89, supersedes Ord. No. 7666; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10330 (N.S.), effective 5-1-14)

SEC. 21.506. EXEMPTIONS.

The following persons are exempt from the requirement to obtain a solicitor's license:

(a) Students attending a public or private educational institution in San Diego County, in any of the grades K through 12 or attending a public or private college or university, raising funds for the school or a school sponsored activity;

(b) Persons with a fixed place of business in San Diego County, including merchants, farmers and ranchers, selling their own products;

(c) Certified Producers selling products at a certified farmer's market;

(d) Non-certified farmers' market vendors selling goods or services at a certified farmers' market so long as the operator and the vendor have complied with section 21.510.

(e) Persons who sell their goods at a rented stall of a lawfully operated swap meet licensed under this code; or

(f) Persons who sell their goods at a nonprofit community event for which a permit has been issued under sections 21.201 et seq.

(Amended by Ord. No. 5493 (N.S.), effective 5-24-79; amended by Ord. No. 7688 (N.S.), effective 12-21-89; amended by Ord. No. 7759 (N.S.), effective 6-5-90; Ord. No. 7763 (N.S.), adopted 6-12-90, effective 7-12-90, supersedes Ord. No. 7759; amended by Ord. No. 7898 (N.S.), effective 5-30-91; amended by Ord. No. 7940 (N.S.), effective 8-8-91; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10330 (N.S.), effective 5-1-14)

State law reference(s)--Educational institutions, Education Code, § 29003; farmer's markets, Administrative Code, § 1392.

SEC. 21.507. EXEMPTION FROM FEES.

As provided in Business and Professions Code section 16102, a veteran of the United States Army, Navy, Marines or Air Force, honorably discharged or released from active duty under honorable conditions, may sell any goods he owns without having to pay a fee for a solicitor's license.

(Amended by Ord. No. 5493 (N.S.), effective 5-24-79; amended by Ord. No. 7603 (N.S.), effective 4-13-89; amended by Ord. No. 7666 (N.S.), effective 9-19-89; Ord. No. 7670 (N.S.), adopted 9-26-89, effective 10-26-89, supersedes Ord. No. 7666; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10330 (N.S.), effective 5-1-14)

State law reference(s)--Veterans defined, Business and Professions Code, § 16102.

SEC. 21.508. HOURS OF BUSINESS.

No person shall engage in the activity as a solicitor from 8:00 p.m. until 8:00 a.m. local time except by appointment.

(Amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10330 (N.S.), effective 5-1-14)

SEC. 21.509. SOLICITING PROHIBITED.

(a) It shall be unlawful for a solicitor to contact or attempt to contact any person at a residential or commercial property when there is a sign posted with letters at least 1/2 inch high that states, "No Solicitors, No Soliciting, Solicitation Prohibited" or any other similar language that indicates that solicitors are not welcome. As used in this section a residential property or commercial property includes all the land surrounding the residence or commercial facility.

(b) A solicitor has a duty before attempting to contact any person at a residential or commercial property to ascertain whether there is a sign as described in paragraph (a) above.

(c) It shall be unlawful for a solicitor to remain on property after being asked to leave by any person legally occupying the property.

(Amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10330 (N.S.), effective 5-1-14)

SEC. 21.510. SOLICITOR'S LICENSE REQUIREMENTS FOR CERTIFIED FARMER'S MARKET OPERATORS AND VENDORS.

(a) A certified farmers' market operator must obtain a solicitor's license under this chapter for non-certified farmers' market vendors to sell goods and services at the certified farmer's market in the unincorporated areas. The solicitor's license shall only apply to one specified location and shall not be transferrable. The license is effective for one year.

(b) (1) At least two (2) days prior to each certified farmers' market meeting, the operator is required to submit a list of all non-certified farmers' market vendors to the Sheriff's Licensing Division detailing the business name, address and intended items for sale.

(2) If a non-certified vendor has not been included in the operator's list to Sheriff's Licensing Division at least 48 hours prior to the market, the operator has discretion to allow the vendor to sell its goods or services at that one (1) meeting. The operator must notify Sheriff within a reasonable period of time of any vendor(s) who were not included on the list prior to the market meeting. Thereafter, that vendor may not participate in another certified farmers' market within the unincorporated areas unless the vendor is included on the Sheriff's list and approved by the Department. The operator shall ensure that any non-certified vendor who does not appear on the list is in compliance with the solicitor's ordinance and all other applicable permits, licenses and laws. Failure to follow this subsection is a violation of this chapter.

(c) Certified farmers' markets with three (3) or fewer non-certified vendors shall be exempt from the financial costs of the solicitor's license, but are required to comply with all reporting mechanisms included in this section. The operator will not be exempt from these costs if there are four (4) or more non-certified vendors at any two (2) events in a calendar year.

(d) All goods for sale at a certified farmers' market shall be limited to new or first-hand items only.

(e) The solicitor's license obtained by the certified farmers' market operator shall not take the place

of any other required permit or license by the non-certified farmers' market vendor or the operator, including but not limited to a food facility permit by the Department of Environmental Health and Quality for the sale of food and/or beverage items.

(f) At all times, the Sheriff's Licensing Division shall have the authority to reject individual vendors based upon items and services for sale and public safety, in addition to those specified in section 21.504.

(g) Unless otherwise provided by law, this section shall not affect certified farmers' market producers.

(h) This section shall be effective on May 1, 2014.

(Added by Ord. No. 10330 (N.S.), effective 5-1-14; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

SEC. 21.511. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The Board of Supervisors hereby declares that it would have adopted the chapter and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

(Added by Ord. No. 10330 (N.S.), effective 5-1-14)

SEC. 21.512. CONSTRUCTION, IMPLEMENTATION AND ENFORCEMENT.

(a) No solicitor shall have any recourse whatsoever against the County for any loss, cost, expense or damage arising out of any provision or requirement of this chapter or the enforcement thereof.

(b) Except as expressly provided in this chapter, this chapter does not relieve any solicitor of any requirement of the County Charter or of any ordinance, rule, regulation or specification of the County.

(Added by Ord. No. 10330 (N.S.), effective 5-1-14)

ARTICLE 2. CHARITABLE SOLICITATIONS*

*Note--A new article, titled Charitable Solicitations, and consisting of Sections 21.513--21.528 added by Ord. No. 5493 (N.S.), effective 5-24-79. Article repealed and new Article added by Ord. No. 6408 (N.S.), effective 8-26-82.

Cross reference(s)--Soliciting persons in vehicles, § 36.601 et seq.

SEC. 21.551. PURPOSE.

The purpose of this article is to protect the public against fraud, deceit and imposition, and to foster transparency for all solicitations made by or on behalf of charitable organizations.

(Amended by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC. 21.552. DEFINITION.

For the purposes of this article the following definitions shall apply:

(a) "Charitable organization" means an organization devoted to a philanthropic, social service, benevolent, patriotic or religious purpose that has received an exemption from federal taxation from the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code.

(b) "Contribution" means money, property, the loan of money or property, food, clothing or any other item having monetary value given or promised to a charitable organization.

(c) "Disclosure statement" means a written statement prepared by a charitable organization that identifies the organization, the reasons it is soliciting funds, its fund-raising expenses, whether the organization has tax-exempt status and whether contributions to the organization are tax deductible.

(d) "Donor" means the person to whom a "solicitation" regulated by this article is presented whether or not the person solicited makes or promises to make a contribution.

(e) "Solicitation" means:

(1) An oral or written request for a contribution to an actual or purported charitable organization made, transmitted, or distributed by any means; or

(2) An offer to sell a service, an item, or the right to attend a function or participate in an activity, when the offer refers to an actual or purported charitable purpose or charitable organization, to induce the recipient of the offer to purchase the service, item, or to attend or participate.

(f) "Solicitor" means any person who for pecuniary compensation or consideration solicits or purports to solicit contributions, for an actual or purported charitable organization and includes a paid employee of an actual or purported charitable organization.

(g) "Volunteer" means a person who assists a charitable organization to obtain contributions, but who receives no pecuniary compensation or consideration from the charitable organization or from any other person for obtaining contributions.

(Amended by Ord. No. 7210 (N.S.), effective 10-30-86; amended by Ord. No. 7603 (N.S.), effective 4-13-89; amended by Ord. No. 7666 (N.S.), effective 9-19-89; Ord. No. 7670 (N.S.), adopted 9-26-89, effective 10-26-89, supersedes Ord. No. 7666; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

Cross reference(s)--Definitions, § 12.101 et seq.

SEC. 21.553. COMPLETED SOLICITATION.

A solicitation is complete when presented to a donor whether or not the donor makes or promises to make a contribution.

(Amended by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC. 21.554. NO SOLICITATION WITHOUT REQUIRED DISCLOSURE.

(a) A charitable organization shall not authorize a person to conduct a solicitation on its behalf unless the organization has prepared a written disclosure statement that contains the following information in at least 10 point type.

(1) The name and address of the charitable organization on whose behalf the contribution is being requested. If the mailing address is a post office box, the charitable organization shall also provide its street address.

(2) The specific purpose for which the charitable organization intends to use the contribution.

(3) The percentage of the contribution that will be allocated to fund raising expenses. In cases where solicitors will be paid a set fee rather than a percentage of the total contributions, the statement shall disclose the total monetary amount allocated to fund- raising expenses.

(4) Whether or not the charitable organization for which a contribution is sought has tax exempt status under federal and/or State law.

(5) The percentage of the total contribution which may be deducted as a charitable contribution under federal and/or State law. If no portion is deductible, the written material shall state that no part of the contribution to the organization is tax deductible.

(b) A disclosure statement may be in the form of a brochure or other written solicitation provided that it complies with paragraph (a) above and does not contain misleading or inaccurate information.

(c) It shall be unlawful for a solicitor to make a solicitation to a donor without first providing the donor with a copy of the "disclosure statement" required by paragraph (a) above.

(d) It shall be unlawful for a charitable organization to allow a volunteer to present a solicitation on its behalf without providing the volunteer with a disclosure statement to present to any donor with whom the volunteer intends to meet.

(Amended by Ord. No. 7210 (N.S.), effective 10-30-86; amended by Ord. No. 7603 (N.S.), effective 4-13-89; amended by Ord. No. 7666 (N.S.), effective 9-19-89; Ord. No. 7670 (N.S.), adopted 9-26-89, effective 10-26-89, supersedes Ord. No. 7666; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC. 21.555. INITIAL SOLICITATION BY TELEPHONE.

If a solicitor or charitable organization makes a solicitation to a donor by telephone, the solicitor or charitable organization shall orally provide the donor with information required by section 21.554(a), and if the donor makes or promises to make a contribution, the solicitor or charitable organization shall mail or personally deliver a disclosure statement to the donor.

(Amended by Ord. No. 7210 (N.S.), effective 10-30-86; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC. 21.556. REGISTRATION REQUIRED.

A charitable organization intending to solicit contributions regulated by this article shall, before

presenting a solicitation, complete a registration form with the Sheriff that provides the following:

- (a) A copy of the disclosure statement required by section 21.554(a);
- (b) The full name, mailing and address and telephone number of any person who will receive any pecuniary compensation or consideration for soliciting contributions on the charitable organization's behalf. If the person identified is not an individual, the charitable organization shall also provide the full name of any individual who will supervise the solicitation and the full name of any individual who will be making the solicitation. If the person soliciting on the organization's behalf is required to register with the State the organization shall also provide proof the person is complying with all State law requirements.
- (c) The means by which the charitable organization intends to make the solicitations.
- (d) The beginning and ending dates for the proposed solicitations and the hours of the day when the solicitations will be made.
- (e) Proof of exemption from taxation of the California Revenue and Taxation Code as a non-profit organization.

(Amended by Ord. No. 7603 (N.S.), effective 4-13-89; amended by Ord. No. 7666 (N.S.), effective 9-19-89; Ord. No. 7670 (N.S.), adopted 9-26-89, effective 10-26-89, supersedes Ord. No. 7666; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10312 (N.S.), effective 2-6-14)

SEC. 21.557. FINANCIAL RECORDS.

The financial records of a soliciting organization shall be maintained on the basis of generally accepted accounting principles as defined by the American Institute of Certified Public Accountants and the Financial Accounting Standards Board and shall comply with all State and federal laws and requirements.

(Amended by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC. 21.558. INAPPLICABILITY TO CERTAIN SOLICITATIONS.

This article shall not apply to a solicitation made by a charitable organization:

- (a) To its members, or
- (b) On the organization's premises, or
- (c) Conducting a legal bingo game under this code.

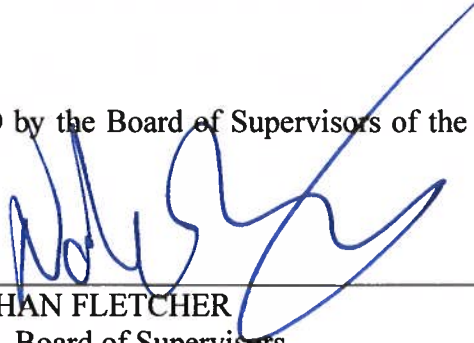
(Amended by Ord. No. 7210 (N.S.), effective 10-30-86; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

Effective Date. This Ordinance shall take effect (30) days after its adoption. Within fifteen days after the date of adoption of this ordinance, a summary shall be published once with the name of those members voting for and against the same in the newspaper of general circulation published in the County of San Diego.

**APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL BY**

Inga B. Lintvedt, Chief Deputy County Counsel

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 14th day of December 2022.



NATHAN FLETCHER
Chair, Board of Supervisors
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Vargas, Anderson, Lawson-Remer, Fletcher
ABSENT: Desmond

ATTEST my hand and the seal of the Board of Supervisors this 14th day of December 2022.

ANDREW POTTER
Clerk of the Board of Supervisors

By 
Teresa Zurita, Deputy



Ordinance No.: 10822 (N.S.)
Meeting Date: 12/14/2022 (02)