

ORDINANCE NO. 10330 (N.S.)

AN ORDINANCE AMENDING THE SAN DIEGO
COUNTY CODE OF REGULATORY ORDINANCES,
RELATING TO SOLICITOR'S LICENSES FOR FARMERS' MARKETS

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

Section 1. The Board of Supervisors finds and determines that economic activity and public safety will be promoted by streamlining the overall licensing process for certified farmers' markets. Currently, the eight certified farmers' markets in the unincorporated area have both certified producers and non-certified vendors present. Producers obtain certification from the County Agricultural Commissioner. Non-certified vendors must obtain solicitor licenses from the Sheriff. This ordinance will simplify the licensing process by exempting non-certified vendors from the individual solicitor license requirement if the certified farmers' market operator has obtained a solicitor license.

Section 2. Chapter 5 of Division 1, Title II of the San Diego County Regulatory Code regarding "Solicitations" is hereby amended to read as follows:

SEC. 21.501. DEFINITIONS.

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

- (a) A "certified farmers' 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 farmers' 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.

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.

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.

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 has been convicted of any offense requiring registration for violation of the Uniform Controlled Substances Act pursuant to Health and Safety Code section

11590 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.

(3) 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. 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.

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.

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.

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.

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.

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.

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 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.

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.

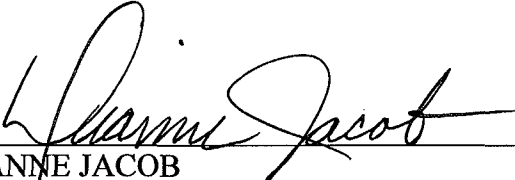
SEC. 21.512. CONSTRUCTION, IMPLEMENTATION AND ENFORCEMENT.

(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.

Section 3. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after the date of its passage or May 1, 2014, whichever is later, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in the Daily Commerce, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 11th day of March, 2014.



DIANNE JACOB
Chairwoman, Board of Supervisors
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, D. Roberts, Horn
ABSENT: R. Roberts

ATTEST my hand and the seal of the Board of Supervisors this 11th day of March, 2014.

THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors

By 

Christina Gomez, Deputy



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03-11-14 (4)