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Pg. 399

ORD. INTRODUCED Following introduction of the matter by City Attorney Stein and  
AMENDING CHAPTER Council discussion, Council, on motion of Mayor Snider, Olson  
15 TO ADD A NEW second, introduced Ordinance No. 1352 - An Ordinance Amending  
SECTION REGARD- Chapter 15 to add a new section regarding solicitors and  
ING SOLICITORS peddlers and amending Chapter 12, Section 12-1. The motion  
AND PEDDLERS AND carried by unanimous vote.  
AMENDING CHAPTER  
12 - SECTION  
12-1 (h)

ORD. NO. 1352  
INTRODUCED

# COUNCIL COMMUNICATION

TO: THE CITY COUNCIL

DATE

NO.

FROM: THE CITY MANAGER'S OFFICE

MARCH 26, 1985

SUBJECT:

PEDDLERS AND SOLICITORS LICENSING

For many years now, the City of Lodi, under its business license ordinance, has charged a license fee for peddling and soliciting. As I am sure you are aware, our business licenses are for revenue raising purposes, and not for regulation of businesses. My office has received a number of complaints over the years from citizens who have been bothered by peddlers and solicitors who continuously disturb our residents. In checking with a number of cities, I found that some have ordinances which permit a citizen to have a "no soliciting or peddling" sign posted at their door. When a peddler or solicitor is given notice of the resident's disinterest in having a peddler/solicitor disturbing them, and if the peddler/solicitor then proceeds to disturb the resident, then the resident can file a complaint.

In order to adequately enforce this "no solicitors/peddlers invited" ordinance, it is imperative that the city adopt a peddlers/solicitors identification ordinance which would permit the citizen to have information as to who exactly is knocking on their door and for what purpose. Unfortunately, the business license has never given the citizens adequate protection, and in some cases allows an unscrupulous peddler/solicitor to show the the peddlers or solicitors business license and use that as a badge of authority or approval from the city.

It is important for this Council to understand that under California law, you cannot prohibit peddlers or solicitors from knocking on the door of residences. Further, in a recent California decision, it was held that you cannot limit the time in which they can call on the residence or business. However, it is my belief that where the property owner gives notice to the peddler/solicitor that he does not want to be disturbed and the solicitor then proceeds to disturb the resident or commercial business operator, the peddler or solicitor can then be cited.

The ordinance which I am suggesting the Council adopt would require the peddler or solicitor to have a certificate of identification. Said certificate would be obtained from the Police Department and would in fact permit the Police Department to have a record of those people who are peddling and soliciting within our City.

Further, the ordinance would allow a homeowner and/or business to disallow peddlers and solicitors from disturbing them by posting a sign to the effect "No Solicitors/Peddlers Invited".



RONALD M. STEIN  
CITY ATTORNEY

RMS:vc

CITY COUNCIL

JOHN R. (Randy) SNIDER, Mayor  
DAVID M. HINCHMAN  
Mayor Pro Tempore  
EVELYN M. OLSON  
JAMES W. PINKERTON, Jr.  
FRED M. REID

# CITY OF LODI

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HENRY A. GLAVES, Jr.  
City Manager

ALICE M. REIMCHE  
City Clerk

RONALD M. STEIN  
City Attorney

## MEMORANDUM

TO: Police Chief Floyd Williams  
Captain Vince Lake  
Finance Director Bob Holm  
Maxine Cadwallader

FROM: Ron Stein  
City Attorney

Attached is a rough draft of the Ordinance Amending Chapter 15 to Add a New Section Regarding Solicitors and Amending Chapter 12, Section 12-1 (h). Please look this over and note your comments on this rough draft and return to me within 10 days.



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Ron Stein  
City Attorney

ORDINANCE NO.

ORDINANCE AMENDING CHAPTER 15 TO ADD A NEW SECTION  
REGARDING SOLICITORS AND AMENDING CHAPTER 12,  
SECTION 12-1 (h)

Section 1. SOLICITOR. Solicitor shall mean and be defined as set forth in Section 12-2(h).

Section 2. CERTIFICATE OF REGISTRATION. Every person desiring to engage in soliciting as herein defined from persons in residences and/or from commercial establishments, is hereby required to make written application for a certificate of registration as hereinafter provided of the completed application. Such certificate shall be carried by the solicitor.

Section 3. APPLICATION FOR CERTIFICATE OF REGISTRATION. Application for a certificate of registration shall be made upon a form provided by the municipality. The applicant shall truthfully state, in full, the information requested on the application, to wit:

1. Name and address of present place of residence and length of residence at such address; also business address if other than present address;

2. Address of place of residence during the past three years if other than present address;

3. Age of applicant;

4. Physical description of the applicant;

5. Name and address of the person, firm or corporation or association whom the applicant is employed by or represents; and the length of time of such employment or representation;

6. Name and address of employer during the past three years if other than the present employer;

7. Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage;

8. Period of time for which the certificate is applied;

9. The date, or approximate date, of the latest previous application for certificate under this ordinance, if any;

10. Has a certificate of registration issued to the applicant under this ordinance ever been revoked?

11. Has the applicant ever been convicted of a violation of a felony under the laws of the state or any other state or federal law of the United States?

12. Names of magazines, journals or books;

13. Names of the three most recent communities where the applicant has solicited house to house;

14. Proposed method of operation;

15. Signature of applicant;

16. Social security number of applicant.

All statements made by the applicant upon the application or in connection therewith shall be under oath.

The applicant shall submit to fingerprinting by the police department of the municipality in connection with the application for the certificate.

The Department of Finance shall cause to be kept in his office an accurate record of every application received and acted upon together with all other information and data pertaining thereto and all certificates of registration issued under the provisions of this ordinance, and of the denial of applications. Applications for certificates shall be numbered in consecutive order as filed, and every certificate issued, and any renewal thereof, shall be identified with the duplicate number of the application upon which it was issued. Upon completion of the application pursuant to this section the Director of Finance shall issue a certificate of registration.

No certificate of registration shall be issued to any person who has been convicted of the commission of a felony under the laws of the state or any other state or federal law of the United States, within five years of the date of application; nor to any person who has been convicted of a violation of any of the provisions of this ordinance; nor to any person whose certificate of registration issued hereunder has previously been revoked as herein provided.

Section 4. REVOCATION OF CERTIFICATE. Any certificate of registration issued hereunder shall be revoked by the Chief of Police if the holder of the certificate is convicted of a violation

of any of the provisions of this ordinance, or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a certificate of registration under the terms of this ordinance. Immediately upon such revocation, written notice thereof shall be given by the Chief of Police to the holder of the certificate in person or by certified United States mail addressed to his or her residence address set forth in the application.

Immediately upon the giving of such notice the certificate of registration shall become null and void.

The certificate of registration shall state the expiration date thereof.

SECTION 5. NOTICE REGULATING SOLICITING. Every person desiring to secure the protection provided by the regulations pertaining to soliciting contained in this ordinance, shall comply with the following directions, to wit:

Notice of the determination by the occupant of giving invitation to solicitors, or the refusal of invitation to solicitors, to any residence, shall be given in the manner following:

of any of the provisions of this ordinance, or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a certificate of registration under the terms of this ordinance. Immediately upon such revocation, written notice thereof shall be given by the Chief of Police to the holder of the certificate in person or by certified United States mail addressed to his or her residence address set forth in the application.

Immediately upon the giving of such notice the certificate of registration shall become null and void.

The certificate of registration shall state the expiration date thereof.

SECTION 5. NOTICE REGULATING SOLICITING. Every person desiring to secure the protection provided by the regulations pertaining to soliciting contained in this ordinance, shall comply with the following directions, to wit:

Notice of the determination by the occupant of giving invitation to solicitors, or the refusal of invitation to solicitors, to any residence, shall be given in the manner following:

A weatherproof card, approximately three inches by four inches in size, shall be exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words as follows:

"Only Solicitors Registered in the City of Lodi  
Invited",

or

"No Solicitors Invited"

The letters shall be at least one-third in height. For the purpose of uniformity the cards shall be provided by the Chief of Police to persons requesting, at the cost thereof.

Such card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupancy of the residence of the information contained thereon.

Section 6. DUTY OF SOLICITORS. If the notice states "Only Solicitors Registered in the City of Lodi Invited", then the solicitor not possessing a valid certificate of registration as herein provided shall immediately and peacefully depart from the premises, and if the notice states "No Solicitors Invited", then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises.

Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

Section 7. UNINVITED SOLICITING PROHIBITED. It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the door bell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such premises, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, in defiance of the notice exhibited at the premises in accordance with the provisions of Section 6 of this ordinance.

Section 8. PENALTY. Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be considered guilty of any infraction.

Section 9. EXEMPTIONS-GENERALLY. Persons in the categories set out in Section 12-10 to 12-14 of the Lodi City Code shall be exempt from the payment of a certificate of registration fee, but shall be required to obtain and display a certificate of registration which certificate shall be issued free of charge by the Director of Finance. (Ord. No. 375 and 377)

AMEND CHAPTER 12, Section 12-1. DEFINITIONS (h)

(h) Solicitor. Solicitor shall mean any person who sells or takes orders, or offers to sell or take orders for any goods, wares, merchandise or thing, for future delivery, or for services to be performed, at any place in the city other than a place of business, and who does not follow a fixed route or serve prospective purchasers in the city regularly or continuously, or any person seeking to:

1. Obtain prospective customers for application or purchase of insurance of any type, kind or publication;  
or
2. Obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication;  
or
3. Obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or nonprofit association, organization, corporation, or project. (Ord. No. 375 and 326)

ORDINANCE NO.

ORDINANCE AMENDING CHAPTER 15 TO ADD A NEW SECTION  
REGARDING SOLICITORS AND PEDDLERS AND AMENDING CHAPTER 12,  
SECTION 12-1 (h)

Section 1. PEDDLER. Peddler shall mean any person who sells and makes immediate delivery, or offers for sale and immediate delivery, any goods, wares, merchandise or thing, in the possession of the seller, at any place in the city other than from a fixed place of business, and who does not follow a prearranged fixed route or serve purchasers in the city regularly and continuously.

Section 2. SOLICITOR. Solicitor shall mean and be defined as set forth in Section 12-1(h).

Section 3. CERTIFICATE OF IDENTIFICATION. Every person desiring to engage in soliciting/peddling as herein defined from persons in residences and/or from commercial establishments, is hereby required to make written application for a certificate of identification as hereinafter provided of the completed application. Such certificate shall be carried by the solicitor.

Section 4. APPLICATION FOR CERTIFICATE OF IDENTIFICATION. Application for a certificate of identification shall be made upon a form provided by the municipality. The applicant shall truthfully state, in full, the information requested on the application, to wit:

1. Name and address of present place of residence and length of residence at such address; also business address if other than present address;

2. Address of place of residence during the past three years if other than present address;

3. Age of applicant and date of birth;

4. Physical description of the applicant;

5. Name and address of the person, firm or corporation or association whom the applicant is employed by or represents; and the length of time of such employment or representation;

6. Name and address of employer during the past three years if other than the present employer;

7. Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage;

8. Period of time for which the certificate is applied;

9. The date, or approximate date, of the latest previous application for certificate under this ordinance, if any;

10. Has a certificate of identification issued to the applicant under this ordinance ever been revoked?

11. Has the applicant ever been convicted of a violation of a felony under the laws of the state or any other state or federal law of the United States?

12. Names of magazines, journals or books;

13. Names of the three most recent communities where the applicant has solicited house to house;

14. Proposed method of operation;

15. Signature of applicant;

16. Social security number of applicant.

17. Shall present identification with a photograph and operators license number.

All statements made by the applicant upon the application or in connection therewith shall be under oath.

The applicant shall submit to fingerprinting by the police department of the municipality in connection with the application for the certificate.

All applicants are subject to fingerprinting and photograph at a fee according to the current City Council resolution setting fees and the Department of Justice fee schedule.

The Chief of Police or his designee shall keep in their office an accurate record of every application received and acted upon together with all other information and data pertaining thereto and all certificates of identification issued under the provisions of this ordinance, and of the denial of applications. Applications for certificates shall be numbered in consecutive order as filed, and every certificate issued, and any renewal thereof, shall be identified with the duplicate number of the application upon which it was issued. Upon completion of the application pursuant to this section the Chief of Police or his designee shall issue a certificate of identification.

No certificate of identification shall be issued to any person who has been convicted of the commission of a felony under the laws of the state or any other state or federal law of the United States, within five years of the date of application; nor to any person who has been convicted of a violation of any of the provisions of this ordinance; nor to any person whose certificate of identification issued hereunder has previously been revoked as herein provided.

Section 5. REVOCATION OF CERTIFICATE. Any certificate of identification issued hereunder shall be revoked by the Chief of Police if the holder of the certificate is convicted of a violation of any of the provisions of this ordinance, or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a certificate of identification under the terms of this ordinance. Immediately upon such revocation, written notice thereof shall be given by the Chief of Police to the holder of the certificate in person or by certified United States mail addressed to his or her residence address set forth in the application.

Immediately upon the giving of such notice the certificate of identification shall become null and void. The certificate of identification shall state the expiration date thereof.

Section 6. NOTICE REGULATING SOLICITING/PEDDLING. Every person desiring to secure the protection provided by the regulations pertaining to soliciting contained in this ordinance, shall comply with the following directions, to wit:

Notice of the determination by the occupant of refusal of invitation to solicitors and/or peddlers, to any residence or commercial property, shall be given in the manner following:

A weatherproof card, approximately three inches by four inches in size, shall be exhibited upon or near the main entrance door to the residence or commercial establishment, indicating the determination by the occupant, containing the applicable words as follows:

"No Solicitors/Peddlers Invited"

Section 7. DUTY OF SOLICITORS/PEDDLERS. If the notice states "No Solicitors/Peddlers Invited", then the solicitor/peddler shall immediately and peacefully depart from premises.

Any solicitor/peddler who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

Section 8. UNINVITED SOLICITING. PEDDLING PROHIBITED. It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the door bell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such premises, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, in defiance of the notice exhibited at the premises in accordance with the provisions of Section 7 of this ordinance.

Section 9. PENALTY. Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be considered guilty of a misdemeanor.

Section 10. APPLICATION FEE. At the time of filing an application for a certificate of identification, the applicant shall pay a fee in accordance with the following:

For each certificate of identification, a sum as adopted from time to time by resolution of the City Council.

Fees prescribed heretofore in this ordinance shall be in addition to any other lawful fees imposed by the City of Lodi for doing or conducting business within the City of Lodi and does not exempt an individual or entity from obtaining a business license pursuant to Chapter 12 of the Lodi City Code.

Section 11. EXEMPTIONS-GENERALLY. Persons in the categories set out in Section 12-10 to 12-14 of the Lodi City Code shall be exempt from the payment of a certificate of identification fee, but shall be required to obtain and display a certificate of identification which certificate shall be issued free of charge by the Chief of Police or his designee. (Ord. No. 375 and 377)

Section 12. AMEND CHAPTER 12, Section 12-1. DEFINITIONS (h)

(h) Solicitor. Solicitor shall mean any person who sells or takes orders, or offers to sell or take orders for any goods, wares, merchandise or thing, for future delivery, or for services to be performed, at any place in the city other than a fixed place of business, and who does not follow a fixed route or serve prospective purchasers in the city regularly or continuously, or any person seeking to:

1. Obtain prospective customers for application or purchase of insurance of any type, kind or publication;  
or
2. Obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication;  
or
3. Obtain gifts or contributions of money, clothing or any

other valuable thing for the support or benefit of any charitable or nonprofit association, organization, corporation, or project. (Ord. No. 375 and 326)

The definition shall not include salesmen or agents for wholesale houses or firms who sell to retail dealers for resale or sell to manufacturers for manufacturing purposes or to bidders for public works or supplies.

Section 13. - All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 14. - This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this            day of

Name \_\_\_\_\_  
MAYOR

Attest:

ALICE M. REIMCHE  
City Clerk

State of California  
County of San Joaquin, ss.

I, Alice M. Reimche, City Clerk of the City of Lodi, do hereby certify that Ordinance No.                    was introduced at a regular meeting of the City Council of the City of Lodi held                    and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held by the following vote:

Ayes:            Council Members -

Noes:            Council Members -

Absent:          Council Members -

Abstain:        Council Members -

I further certify that Ordinance No.                    was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

ALICE M. REIMCHE  
City Clerk

Approved as to form

RONALD M. STEIN  
City Attorney