

TOWN OF SAN ANSELMO

ORDINANCE No. 909

AN ORDINANCE OF THE TOWN OF SAN ANSELMO REPEALING
CHAPTER 16 OF TITLE 4 OF THE SAN ANSELMO MUNICIPAL
CODE CURRENTLY ENTITLED "SOLICITORS AND PEDDLERS"
AND ENACTING IN ITS PLACE A NEW CHAPTER 16 OF TITLE
4 ENTITLED "CHARITABLE SOLICITATION"

The San Anselmo Town Council does hereby ordain as follows:

Section 1. Chapter 16 of Title 4 of the San Anselmo Municipal Code currently entitled "Solicitors and Peddlers" is hereby repealed, and there is hereby enacted in its place a new Chapter 16 of Title 4, entitled "Charitable Solicitation," which is to read as set forth in "Exhibit A," hereto attached and incorporated by reference.

Section 2. The foregoing ordinance was read and introduced at a regular meeting of the San Anselmo Town Council on January 9th, 1989, and was thereafter duly adopted at a regular meeting of the Town Council held on January 23rd, 1990 by the following vote:

AYES: Chignell, Colteaux, Sharp, Zaharoff, Walsh

NOES: (None)

ABSENT: (None)



ANN WALSH

ATTEST:


Caroline Foster

EXHIBIT "A"

CHAPTER 16. CHARITABLE SOLICITATION

Section 4-16.01 Purpose

The purpose of this chapter is to regulate door-to-door charitable solicitation and charitable solicitation conducted on public streets, rights-of-way and other public property within the Town. This chapter is not meant to preempt compliance by charitable solicitors with or deemed to satisfy the requirements governing charitable solicitation set forth in the California Business and Professions Code.

Section 4-16.02 Definitions

The following words and phrases, shall, for purposes of this chapter, have the meaning ascribed to them by this section:

(a) "Agent" shall mean a person who has authorization from a holder of a charitable solicitation permit to solicit in the name of the permit holder.

(b) "Charitable" means and includes the words philanthropic, social service, welfare, benevolent, educational, religious, civic, fraternal, patriotic.

(c) "Charitable solicitation" shall mean any request, plea, entreaty, demand, or invitation to give money or property, including the offer to sell any advertising space, book, card, magazine subscription, membership, merchandise, ticket of admission or similar item in connection with which:

(1) Any appeal is made for charitable purposes; or

(2) The name of any charity is used or referred to in any such appeal as an inducement for making any such gift; or

(3) Any statement is made to the effect that the solicited money or property or any part thereof will go to or be used for any charity or charitable purpose.

(d) "Charity" shall include any non-profit organization, trust or other person which solicits or obtains contributions solicited from the public for charitable purposes or holds any assets for charitable purposes. Charitable purposes include but are not limited to the improvement and advancement of public safety, education, religion, the

prevention of cruelty to children and animals, environmental protection, and other benevolent purposes. Charity shall include any non-profit organization or trust exempt from taxation pursuant to California Revenue and Taxation Code section 23701 (d) or Internal Revenue Code Section 501 (c)(3).

(e) "Chief of Police" shall mean the Chief of Police of the Town or his designee.

(f) "Contribution" shall mean and include the words donations, money, pledges, alms, food, clothing, subscription, property, credit, financial assistance, or other things of value.

(g) "Member" shall mean a person who belongs to an organization who is entitled to vote, elect officers of the organization or hold office. The term "member" shall not include those persons who are granted a membership solely for making a contribution as a result of the charitable contribution.

(h) "Person" shall mean any individual, firm, partnership, corporation, company, association, joint-stock organization, church, religious sect, religious denomination, society, organization, or league and shall include any agent, trustee, receiver, assignee, or other similar representative thereof.

(i) "Political Fundraising and Canvassing" shall mean going in and upon private residences within the Town for the purpose of discussing and enlisting resident support on political matters such as, but not limited to, the statutory or regulatory authority of local, state or national governments, enactment or repeal of legislation and election of candidates to office. Political fundraising and canvassing activities include but are not limited to: door-to-door soliciting of financial contributions in support of a political candidate's or organization's political activities; circulation of petition(s) for resident signatures(s), requesting resident votes in favor or opposition to ballot measures and candidates; enlisting residents to vote, write letters, march or otherwise express their opinions on political matters.

(j) "Public Agency" shall mean the United States, State of California, any city or town, county, city and county, district, municipal or public corporation or any department, agency or instrumentality thereof.

(k) "Residential Dwelling" shall mean a building designed for or occupied by one or more families as a residence including single family residences, duplexes, and apartments.

Section 4-16.03 Permit Required for Charitable Solicitation

It shall be unlawful for any person to engage in door-to-door charitable solicitation at or upon residential dwellings or non-residential buildings within the Town, or to engage in charitable solicitation in Town parks or other Town property, on public sidewalks, and other rights-of-way without first obtaining a charitable solicitation permit from the Chief of Police. This requirement shall not apply to activities specifically excepted by Sections 4-16.04 and 4-16.05 of this Code.

Section 4-16.04 Permit Exemption for Political Fund-Raising and Canvassing

(a) The permit requirements of this chapter shall not apply to political fund-raising and canvassing and no prior review or approval by the Chief of Police is required for a person to engage in those activities. An organization sponsoring political fund-raising and canvassing need not have tax exempt status under state or federal law in order for its activities to be exempt from permit requirements under this chapter.

(b) In the event that a dispute arises between the Chief of Police and a person planning to conduct a solicitation as to whether such activity falls within the permit exemption provided in subsection (a) of this section, the person shall have the right of appeal to the Town Administrator. Said appeal shall be in writing and shall describe the planned activities, the sponsor of the activities, and any other evidence of the proposed activity's political character. The Town Administrator shall determine whether the proposed solicitation is exempt from permit requirement under subsection (a) of this section within three business days after the filing of a complete appeal.

Section 4-16.05 Other Permit Exemptions

(a) The permit requirements of this chapter shall also not apply to

- (1) Charitable solicitation by public agencies.
- (2) Solicitations limited to recruiting for volunteer services.

(3) Any person organized and operated wholly or or partly for nonprofit purposes, if the solicitation by such person is conducted only among the members thereof by other members or officers, voluntarily and without remuneration for making such solicitation, or if the solicitation is in the form of collections or contributions taken or made at the regular assemblies or services of any such person.

(4) Persons under the age of 18 soliciting for their school or for a non-profit organization on a voluntary basis.

(b) In the event a dispute arises between the Chief of Police and a person planning to conduct a solicitation as to whether such activity falls within one of permit exemptions provided in subsection (a) of this section, the person shall have a right to appeal to the Town Administrator. Such appeal shall be in writing, shall describe the proposed solicitation activities, the sponsor of the activities, and any other evidence that the proposed activities are exempt under subsection (a) of this section. The Town Administrator shall determine whether the proposed solicitation is exempt within three business days after the filing of a complete appeal.

Section 4-16.06 Contents of Permit Application

An application under penalty of perjury for a charitable solicitation permit shall be filed with the Chief of Police which shall contain the following information:

(a) The name, address and telephone number of the person completing the application form.

(b) The name, address, phone number and purpose of the charitable organization.

(c) The name, address and telephone number of a responsible person in the charitable organization to contact.

(d) Whether the applicant organization has tax-exempt status under federal and state law. If the applicant claims to be a tax-exempt organization the applicant shall provide the Chief of Police with a letter of determination from the Internal Revenue Service and/or a letter of good standing from the State Franchise Tax Board demonstrating the applicant's tax exempt status.

(e) The information required by California Business and Professions Code Section 17510.3 (governing disclosure requirements for solicitation as amended from time to time)

with a copy of the card or brochure required thereunder for distribution to the prospective charitable donor or purchaser.

(f) Such supplemental information requested by the Chief of Police as to the planned dates and location(s) within the Town for the charitable solicitation and number and identify of agents participating in the charitable solicitation. The Chief of Police may require that such information be updated during the year the permit is in force if changes occur subsequent to filing of the application in the planned dates and locations for the charitable solicitation.

Section 4-16.07 Permit

The Chief of Police shall issue the charitable solicitation permit within five business days after receipt of the application. The permit will be good for one year from the date of its issuance. Such permit shall extend to the applicant and all agents thereof. Any person acting or claiming to act, or operate, under or by virtue of any permit issued pursuant to this chapter, shall upon request of the Chief of Police, exhibit to him such permit, or inform him of the number and date of issuance thereof, or alternatively if such person is an agent of the permit holder, he shall exhibit evidence of such agency. The permit shall be non-transferable.

Section 4-16.08 Permit Renewal

The charitable solicitation permit can be renewed annually by filing an application under penalty of perjury updating information provided to the Chief of Police in the original application, including updated letter of determination and/or letter of good standing where the organization is tax-exempt.

Section 4.16.09 Manner of Solicitation

(a) It shall be unlawful to affix any object to any member of the public without first receiving express permission thereof.

(b) Upon request of any person contacted, the charitable solicitor shall provide their name and a copy of the permit issued under this chapter.

(c) It shall be unlawful for a charitable solicitor to misrepresent their identity or the identity of the organization or other person conducting the charitable solicitation for which he or she is an agent.

(d) It shall be unlawful to misrepresent that the charitable solicitation permit issued under this chapter is an endorsement by the Town, or any department or employee thereof of the charitable solicitation.

(e) It shall be unlawful to refuse to leave a residential dwelling after being requested to do so by its occupant(s).

Section 4.16.10 Prohibition by Sign

(a) No charitable solicitor shall contact or attempt to contact in person the occupant(s) of any residential dwelling within the Town where there is posted at the front of the dwelling, in letters not less than one inch in height and clearly visible from the normal entryway to such dwelling a sign prohibiting soliciting or peddling and soliciting.

(b) No charitable solicitor shall attempt to contact in person the occupant(s) of any wholesale or retail business premises within the Town where there is posted at all entrances thereto, in letters not less than one inch in height and clearly visible to persons a sign or placard prohibiting soliciting or peddling and soliciting.

Section 4.16.11 Fund-Raising as a Business

An organization in the business of fund-raising (seeking a profit and paying its solicitors), even if engaged by a nonprofit organization, shall be considered a "Business" and must comply with Title 6 of the San Anselmo Municipal Code. If such an organization is soliciting on behalf of a non-profit Organization, the non-profit organization shall obtain a permit pursuant to Section 4-16.07.

Section 4-16.12 Violations

A violation of any provision of the chapter shall constitute either an infraction or a misdemeanor.