

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE

IN THE MATTER OF:

An Ordinance of the City Council of the City of)	
Lafayette Amending Chapter 4-4 of the Lafayette)	
Municipal Code Entitled "Solicitors, Peddlers and)	Ordinance No. 605
Canvassers")	
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)	

WHEREAS, the City of Lafayette regulates solicitors, peddlers and canvassers as set forth in Chapter 4-4 of the Lafayette Municipal Code based on the findings and purposes set forth in Section 4-401;

WHEREAS, Chapter 4-4 requires each individual engaged in soliciting and peddling, as defined in that chapter to have a valid solicitors permit issued by the Lafayette Police Department, with very limited exemptions, as defined in that chapter;

WHEREAS, in the hopes of increasing their donation base in light of continually reduced State funding for schools, the booster clubs that support the athletic programs of Lafayette schools have decided to go door-to-door to solicit donations from Lafayette residents, and have requested an exemption from Chapter 4-4 to enable them to engage in such solicitation without paying the permit fee;

WHEREAS, the City Council recognizes the importance of these booster clubs to the continued vitality of the athletic programs for Lafayette, Moraga and Orinda schools, and the valuable contribution that the schools' sports teams bring to Lamorinda , by engendering a sense of community and engaging the community, and therefore wishes to support their fundraising efforts by creating this exemption; and

WHEREAS, the City Council also recognizes that this community contribution is not unique to the booster clubs, and that many local non-profit groups (as defined in this ordinance) with educational purposes also benefit the Lafayette, Moraga and Orinda schools and would benefit from this exemption, and wishes to treat all such groups equally; and

WHEREAS, this ordinance is adopted to accomplish the goals set forth above.

THE CITY COUNCIL OF THE CITY OF LAFAYETTE DOES ORDAIN AS FOLLOWS:

Section 1. Amendment. Section 4-402, entitled "Definitions," of Chapter 4-4 of the Lafayette Municipal Code, entitled "Peddlers, Solicitors and Canvassers," is hereby amended to read as follows:

"Section 4-402 Definitions.

For purposes of this chapter, the following definitions shall apply.

(a) "Peddling" includes the act of any person, whether a resident of the city or not, traveling by foot, vehicle, or any other type of conveyance, from door to door, place to place, house to house, or street to street, carrying, conveying, or transporting goods, wares, merchandise, other personal property of any nature or services in which the person deals. A person who engages in the act of peddling shall be referred to as a "peddler."

(b) "Soliciting" includes the act of any person, whether a resident of the city or not, traveling by foot, vehicle, or any other type of conveyance, from door to door, place to place, house to house, or street to street, requesting directly or indirectly, money, credit, personal property, or other thing of value or taking or attempting to take orders for the sale of goods, wares and merchandise, or personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future. A person who engages in the act of solicitation shall be

referred to as a “solicitor.”

(c) “Canvassing” includes the act of any person, other than a peddler or a solicitor, whether a resident of the city or not, traveling by foot, vehicle, or any other type of conveyance, who goes from door to door, place to place, house to house, or street to street conducting a poll, survey, or petition drive, or sharing, communicating or otherwise conveying ideas, views or beliefs, or disseminating oral or written information to a person willing to directly receive such information, whether political, religious, commercial, non-commercial, charitable or otherwise. A person who engages in the act of canvassing shall be referred to as a “canvasser.”

(d) “Handbilling” includes the act of any person who casts, deposits, places, scatters or throws any commercial or noncommercial handbill, pamphlet, circular, newspaper, paper, booklet, poster, leaflet, or other printed matter onto the property of a business or residence in the absence of a subscription agreement.

(e) “Person” shall mean any individual, group, firm, partnership, corporation, joint venture, company, club, association, religious organization, sect, denomination, society, league, and any other organization.

(f) “Police Department” shall mean the Lafayette Police Department.

(g) “Local non-profit” shall mean a non-profit 501(c)(3) corporation organized and operated exclusively for educational purposes, which is located and operated within Lafayette, Moraga and/or Orinda.

(h) “Group permit” means a permit issued to a local non-profit allowing the members of the local non-profit to peddle or solicit as described in subsections 4-402(a) or 4-402(b), without each member having a permit issued from the city pursuant to this chapter.”

Section 2. Amendment. Section 4-403, entitled “Permit—Required and nontransferable,” of Chapter 4-4 of the Lafayette Municipal Code, entitled “Peddlers, Solicitors and Canvassers,” is hereby amended to read as follows:

“4-403 - Permit—Required and nontransferable.

(a) It is unlawful for any person to peddle or solicit as described in subsections 4-402(a) or 4-402(b) without having a permit from the city issued pursuant to this chapter that is valid, unrevoked and in effect at all times. Such permit shall not be transferred to any person or used by any person other than the person named in and issued the permit.

(b) Notwithstanding the foregoing, the police department may issue a group permit to a local non-profit who submits an application , along with all information required by the police department to verify that the local non-profit meets the definition of a local non-profit set forth in section 4-402 and the accuracy of the information set forth in the application, one group permit, for the cost of an individual permit. In its application for a group permit, the local non-profit shall provide the name, address and phone number of the designated member of the local non-profit who shall serve as the local non-profit’s representative in all dealings with the city or police department that concern the group permit. The police department shall issue the permit to the representative and the representative shall be authorized to act on behalf of the local non-profit in addressing any concerns that the city or police department may have regarding the local non-profit’s actions, and representing the local non-profit in the event of suspension or revocation of the permit.” Section 3. CEQA. The City Council finds that adoption of this Ordinance is not a "project," as defined in the California Environmental Quality Act because it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and concerns general policy and procedure making.

Section 4. Notice of Exemption. The City Council directs staff to prepare and file a Notice of Exemption no more

than five (5) working days after adoption of this Ordinance.

Section 5. Effective Date. This Ordinance becomes effective thirty (30) days after its adoption.

Section 6. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not effect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivision, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

Section 7. Publication. The City Clerk shall either (a) have this Ordinance published in a newspaper of general circulation once within fifteen (15) days after its adoption, or (b) have a summary of this Ordinance published twice in a newspaper of general circulation, once five (5) days before its adoption and again within fifteen (15) days after adoption, with the names of the City Council members voting for and against it.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Lafayette held on March 12, 2012, and was adopted at a regular meeting of the City Council held on March 26, 2012 by the following vote:

AYES: Federighi, M. Anderson, B. Andersson, Anduri and Tatzin

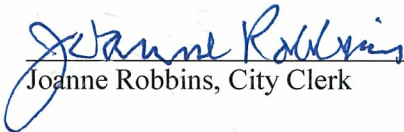
NOES: None

ABSTAIN: None

ABSENT: None

ATTEST:

APPROVED:


Joanne Robbins, City Clerk


Carol Federighi, Mayor