

City of Winters

Ordinance No. 91-11

AN ORDINANCE REGULATING SOLICITORS IN
THE CITY OF WINTERS

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

Section 1. The City Council recognizes the right of privacy of its Citizenry, and specifically the right to be free of unwanted, and unrequested, solicitation while in residence. Accordingly, the City Council by this regulation seeks to balance the right of individuals and groups to communicate with the citizens of Winters, for commercial purposes, and the rights of the citizens of Winters to be free of such unwanted communication.

Section 2. This ordinance will be known as An Ordinance Regulating Solicitors in The City of Winters. Chapter 4 is hereby added to Title X of the Winters Municipal Code to read as follows:

Chapter 4. Regulation of Solicitors and Canvassers in the City of Winters.

Section 10-4.401. Findings.

The City Council recognizes the right of privacy of its Citizenry, and specifically the right to be free of unwanted, and unrequested, solicitation while in residence. Accordingly, the City Council by this regulation seeks to balance the right of individuals and groups to communicate with the citizens of Winters, for commercial purposes, and the rights of the citizens of Winters to be free of such unwanted communication.

Section 10-4.402. Definitions. As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(a) City: The City of Winters.

(b) Soliciting: Soliciting shall mean and include any one or more of the following activities:

(i) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services, or any kind, character or description whatever, for any kind of consideration whatever; or

(ii) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or publication; or

(iii) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication; or

(iv) Seeking to 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.

(c) Residence: Residence shall mean and include every separate living unit occupied for residential purposes by one or more persons contained within any type of building or structure.

(d) Registered solicitor: Registered solicitor shall mean and include any person who has obtained a valid certificate of registration as hereinafter provided, which certificate is in the possession of the solicitor on his or her person while engaged in soliciting.

Section 10-4.403. Certificate of Registration. Every person desiring to engage in soliciting as herein defined from persons in residences within this municipality, is hereby required to make written application for a certificate of registration as hereinafter provided. Such certificate shall be carried by the solicitor. In addition to the certificate of registration, the City shall issue an identification badge to every solicitor. Every solicitor shall wear the badge in such a way that the badges may be easily read while doing business. If a badge becomes damaged or obscured, the solicitor shall return it to the City and receive another badge. This obligation, and the fees provided for in this Chapter, are supplemental to the Business License requirements of Chapter 1 of this Title. In addition to the business license required therein, each person desiring to engage in soliciting as herein defined, from persons in residences within this city, must also comply with this Chapter.

Section 10-4.404. Application for Certificate of Registration. Application for a certificate of registration shall be made upon a form provided by the City. The applicant shall truthfully state in full the information requested on the application, to wit:

(a) Name and address of present place of residence and length of residence at such address; also business address if other than present address;

(b) Address of place of residence during the past three years if other than present address;

(c) Age of applicant;

(d) Physical description of applicant;

(e) 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;

(f) Name and address of employer during the past three years if other than the present employer;

(g) Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage;

(h) Period of time for which the certificate is applied;

(i) The date, or approximate date, of the last previous application for certificate under this chapter, if any;

(j) Has a certificate of registration issued to the applicant under this chapter ever been revoked?

(k) Has the applicant ever been convicted of a violation of a felony under the laws of the State of California or any other state or federal law of the United States?

(l) Names of magazines, journals or books;

(m) Names of the three most recent communities where the applicant has solicited house to house;

(n) Proposed method of operation;

(o) Signature of applicant;

(p) 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 City in connection with the application for the Certificate.

The City Clerk shall cause to be kept in his or her 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 chapter, 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.

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 the application; nor to any person who has been convicted of a violation of any of the provisions of this chapter; nor to any person whose certificate of registration issued hereunder has previously been revoked as herein provided.

Section 10-4.405. 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 chapter, 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 chapter. 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 10-4.406. Notice regarding soliciting. Every person desiring to secure the protection provided by the regulations pertaining to soliciting contained in this chapter, 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 Winters, invited,"

or

"No Solicitors" or "No Soliciting"

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

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

Section 10-4.407. Duty of Solicitors. It shall be the duty of every solicitor upon going onto any premises in the City upon which a residence as herein defined is located, to first examine the notice provided for in this chapter, if any is attached, and be governed by the statement contained in any notice. If the notice states "Only Solicitors Registered in Winters 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" or "No Soliciting," 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 10-4.408. 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 residence, 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 residence in accordance with the provisions of section 10-4.407 of this chapter.

Section 10-4.409. Time Limit on Soliciting. It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this chapter or not, to go upon any premises and ring the door bell upon or near any door of a residence located thereon, or rap or knock upon any door or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing any audience with the occupant thereof and engage in soliciting as herein defined, prior to nine a.m. or after seven p.m., Monday through Saturday, or at any time on a Sunday or on a state or national holiday. In addition, no solicitor shall conduct business on Winters Joint Unified School District property between the hours of 7:30 a.m. and 3:30 p.m. without the prior express approval of the school district and police department.

Section 10-4.410. Insurance. No certificate of registration shall be issued to an applicant unless the applicant furnishes proof to the City of a public liability bond or insurance policy in an amount not less than three hundred thousand dollars (\$300,000.00) for property damage and bodily injury liability, including injury resulting in death, caused by the applicant.

Section 10-4.411. Fees. The City shall by resolution establish fees for the issuance of certificates of registration sufficient to offset the City's cost of regulation of solicitors. These fees shall be supplemental to any business license fees charged to solicitors. Both fees shall be payable upon application. The fees charged under this Chapter shall be non-refundable. Certificates of registration shall be valid for one year from the date of issuance, unless sooner revoked as provided herein.

Section 10-4.412. Renewals. Renewals shall be done on an annual basis. Application for renewals of certificates of registration shall be received no later than thirty days prior to the expiration of the applicant's certificate of registration, or shall be processed as new applications. The City may review applications for renewal to determine that:

(a) The applicant is in full compliance with the provisions of this chapter;

(b) The applicant has a currently effective insurance policy in the minimum amount provided in this Chapter, or as amended by subsequent Resolution of the Winters City Council.

If the City finds that the applicant meets the above requirements, the City shall issue a new certificate of registration.

Section 10-4.413. Enforcement. Enforcement shall be implemented by the City Manager or through a city staff person designated by him or her. In addition, any Winters Police Officer is authorized to enforce the provisions of this chapter. Such person shall have authority to issue citations based upon reasonable cause in a manner most suitable to the particular incident.

Section 10-4.414. No preemption. This chapter shall not be interpreted to permit soliciting, or the procedures thereof or redress therefrom, where restricted by state law.

Section 10-4.415. Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provisions or application, and to this end the provisions of this chapter are severable.

Section 10-4.416. Penalty. Any person, firm, corporation, or organization which violates any provision of this chapter shall, upon conviction thereof, be subject to a fine of not more than five hundred dollars for each offense. A person, firm, corporation or organization shall be deemed guilty of a separate offense for each day during any portion of which a violation of this chapter is committed, continued or permitted by the person, firm, corporation or organization.

Any person, firm, corporation, or organization wilfully failing to pay a lawfully imposed fine for violation of any provision of this chapter within the time authorized by the Court and without lawful excuse having been presented to the court on or before the date the fine is due is guilty of a misdemeanor regardless of the full payment of the fine after such time. Upon conviction thereof, punishment shall be a fine of not more than \$1,000 or imprisonment for a term not exceeding six months, or by both a fine and imprisonment.

Section 10-4.417. Nuisance, Injunction. Any violation of this chapter is hereby declared to be a nuisance. In addition to any other relief provided by this chapter, the City Attorney may apply to a Court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this chapter. Such application for relief may

including seeking a temporary restraining order, temporary injunction and permanent injunction.

Section 3. This ordinance shall take effect 30 days after the date of its adoption.

Section 4. This ordinance was first introduced at a regular meeting of the Winters City Council held on Tuesday, December 17, 1991, and passed, after published and posted notice, following a public hearing held on January 7, 1992, by the following vote:

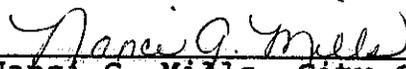
AYES: Curry, Mosier, Pfanner, Mayor Pro Tem Fridae

NOES: None

ABSENT: Mayor Chapman

ATTEST:


Woody Fridae, MAYOR PRO TEM


Nanci G. Mills, City Clerk