

CITY OF SAN MARCOS
1 CIVIC CENTER DRIVE
SAN MARCOS, CALIFORNIA 92069

CHARITABLE, NONPROFIT SOLICITATION LICENSE

Proof of charitable, nonprofit status must be submitted with this application. Each solicitor who will be soliciting in San Marcos must complete a Miscellaneous Information Sheet.

SOLICITATION DATES: _____ SOLICITATION HOURS: _____

PLACES AND/OR AREAS OF SOLICITATION ACTIVITY: _____

ORGANIZATION FOR WHOM SOLICITATIONS ARE TO BE MADE: _____

LOCAL HEADQUARTERS TELEPHONE: _____ CONTACT PERSON: _____

ADDRESS OF LOCAL HEADQUARTERS: _____

(Number) (Street) (City) (Zip)

ADDRESS OF STATE HEADQUARTERS: _____

(Number) (Street) (City) (Zip)

ADDRESS OF NATIONAL HEADQUARTERS: _____

(Number) (Street) (City) (Zip)

SUPERVISING/RESPONSIBLE INDIVIDUAL PERSON(S) FOR SOLICITATION ACTIVITY:

NAME: _____ TELEPHONE # _____

ADDRESS: _____

(Number) (Street) (City) (State) (Zip)

SEX: _____ BIRTHDATE: _____ HAIR: _____ EYES: _____ WEIGHT: _____ HEIGHT: _____

HAVE YOU EVER BEEN ARRESTED? YES () NO () IF ANSWER IS YES, EXPLAIN _____

ARE YOU AFFILIATED WITH OR WORKING FOR ANY ORGANIZATIONS OTHER THAN THE ONE FOR WHICH THIS

APPLICATION IS MADE? _____ IF YES, FOR WHOM? _____

WHAT IS THE EXACT PURPOSE FOR WHICH THE PROCEEDS OF THE SOLICITATION ARE TO BE USED? _____

DESCRIBE THE METHOD OF SOLICITATION – (Include the amount of, if any, compensation and the manner in which this compensation is to be collected.)

NAME/ADDRESS OF BANK OR PLACE WHERE ALL OR ANY PART OF FUNDS RAISED WILL BE PLACED ON DEPOSIT:

WHAT RECORD OF FUNDS RECEIVED WILL BE KEPT AND WHERE? _____

UNDER PENALTY OF PERJURY, I SWEAR THAT THE FOREGOING STATEMENTS ARE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE. IT IS UNDERSTOOD BY ME THAT STATEMENTS FOUND NOT TO BE TRUE, COMPLETE AND ACCURATE WILL BE GROUNDS FOR REFUSAL, OR REVOCATION OF ANY PERMIT OR LICENSE ISSUED TO ME BY THE CITY OF SAN MARCOS, WITHOUT FURTHER NOTICE TO ME. I UNDERSTAND AND AGREE TO HAVING ALL REQUIRED NOTICES UNLESS OTHERWISE SPECIFIED, SENT BY U.S. MAIL TO THE ADDRESS GIVEN ON THIS APPLICATION. I HAVE READ AND UNDERSTAND SECTIONS 5.20 ET. SEQ. OF THE SAN MARCOS MUNICIPAL CODE OF PERGULATORY ORDINANCES PERTAINING TO SOLICITATIONS.

IN ACCORDANCE WITH THE CITY OF SAN MARCOS ORDINANCE, THE CITY OF SAN MARCOS AND THE SHERIFF'S DEPARTMENT ARE HEREBY AUTHORIZED TO USE THE ABOVE INFORMATION TO OBTAIN A CRIMINAL RECORD CHECK.

DATE

SIGNATURE OF APPLICANT

OFFICE USE ONLY

SHERIFF'S DEPARTMENT USE ONLY

Approved () Disapproved ()

Permit approved subject to the following conditions: _____

By: _____ Date: _____
Sheriff's Department

HOUSING & NEIGHBORHOOD SERVICES DIVISION USE ONLY

Approved () Disapproved ()

Permit approved subject to the following conditions: _____

By: _____ Date: _____

CITY OF SAN MARCOS
1 CIVIC CENTER DRIVE
SAN MARCOS, CA 92069
(760) 744-1050, EXT. 3111

MISCELLANEOUS INFORMATION SHEET

ATTACH TO LICENSE # _____

APPLICANTS NAME: _____
(Last) (First) (Middle)

ALL OTHER NAMES USED: _____

DATE OF BIRTH: _____ PLACE OF BIRTH: _____ HEIGHT: _____ WEIGHT: _____

SEX: _____ HAIR: _____ EYES: _____ CDL# _____ SSN: _____

RESIDENCE ADDRESS: _____
(Number) (Street) (City) (State) (Zip)

RESIDENCE PHONE: _____ EMERGENCY PHONE: _____

LIST PREVIOUS RESIDENCES FOR THE PAST 5 YEARS:

LIST ALL CHARGES RESULTING IN CONVICTION OR PLEA OF NOLO CONTENDERE WITHIN THE PAST 5 YEARS
(Except for Misdemeanor Traffic Violations).

DATE	PLACE/AGENCY	CHARGE	DISPOSITION	NAME ON DISPOSITION
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

I CERTIFY UNDER PENALTY OF PERJURY THAT THE INFORMATION I HAVE GIVEN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THE INFORMATION SUPPLIED IN THIS APPLICATION MAY BE USED TO OBTAIN A CRIMINAL RECORD CHECK.

DATE: _____

Signature of Applicant

OFFICE USE ONLY

FOR USE OF SHERIFF'S DEPT.
Approved _____ Disapproved _____
Reason _____

Date _____ By _____

FOR USE OF HOUSING & NEIGHBORHOOD SVCS DIV
Approved _____ Disapproved _____
Reason _____

Date _____ By _____

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***SOLICITATION OR SALE FOR CHARITABLE PURPOSES STATEMENT**
Not an endorsement but for information only

CHARITABLE ORGANIZATION NAME _____

ADDRESS _____

PAID PROMOTER'S NAME _____

PROMOTER'S ADDRESS _____

PAID SOLICITOR'S NAME _____

PURPOSE OF SOLICITATION _____

THIS CONTRIBUTION (IS) (IS NOT) TAX DEDUCTIBLE

PERCENTAGE OF TOTAL GIFT OR PRICE THAT MAY
BE DEDUCTED AS CHARITABLE CONTRIBUTION _____ %

TOTAL AMOUNT OF FUNDS PROPOSED TO BE RAISED _____

ESTIMATED COST OF SOLICITATION _____

ESTIMATED AMOUNT REMAINING FOR
CHARITABLE PURPOSES _____

Name and Address of Organizations that will receive funds (if no
Organization, manner in which money collected will be utilized)

I declare under penalty of perjury that the foregoing information is true and correct to the best of my knowledge and belief.

(Signature of person in charge of solicitation)

TITLE: _____

DATE: _____

Above information must be read or presented to any prospective donor

*Statement provided in lieu of Identification Card

CHAPTER 5.20SOLICITATIONSSECTIONS:

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ARTICLE I. SOLICITATIONS GENERALLY

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

(a) ***Established place of business*** means a fixed place, location or building, owned or leased or rented on a yearly or monthly basis, by the person who uses such place, location or building as his permanent place of business. Established place of business does not include a residence unless such person possesses a State retail sales tax license indicating the residence as the business address.

(b) ***Goods*** means goods, wares, merchandise, products, chattels of any description, magazines, periodicals or other publications or subscriptions therefor; regularly published newspapers as defined in this chapter excepted.

(c) ***House*** means any structure, building or dwelling which has walls on all sides and is covered by a roof. House includes the land area surrounding it.

(d) ***Identification card*** means a solicitor's identification card issued to a person who possesses a valid solicitor's license or who is employed or engaged to solicit by a person licensed to do business as a solicitor within the City.

(e) **Interviewer** means any person who goes to a house or upon any public place for interviewing persons or soliciting answers to questions for marketing research, opinion, research, attitude surveys or for any other pool or information gathering service for compensation or other business enterprise. Interviewer does not include persons representing governmental entities, political parties, newspapers, radio or television stations, or persons circulating petitions for initiative, referendum or other political purpose.

(f) **License** means a license which is issued to a person who is doing business as a solicitor in the City.

(g) **Newspaper** means a publication appearing at regular intervals at short periods of time, as daily, weekly, biweekly, usually in sheet form and containing news that is reports of recent occurrences, political, social, moral, sporting events and items of varied character, both local and foreign, intended for the information of the general reader and has reference to the natural, plain and ordinary significance of the word newspaper and does not refer to or comprehend magazines or periodicals. Newspaper does not include regular or periodic advertising circulars, certificates, papers, coupons, books, or pamphlets.

(h) **Public place** means any place to which anyone may have access without trespassing.

(i) **Retail business** means sales of goods for any purpose other than resale in the regular course of business. Retail business includes a retailer.

(j) **Services** means any act performed for the benefit of another under some arrangement or agreement whereby such act was to have been performed.

(k) **Solicitor** includes peddlers, hawkers, transient dealers, salespersons or other itinerant vendors, or an interviewer as defined in this chapter or any person who sets up a temporary stand or goes to a house or dwelling or upon any public place for the purpose of selling services, or offers to sell, or selling by sample, or take orders for, give away or otherwise dispose of any goods, or anything of value, or who offers to distribute or delivers any coupon, certificate, handbill, ticket, token card, paper, circulars, chance coupon, magazine, or other items which in turn are redeemable for goods.

(l) **Temporary stand** means any stand, table, handcart, motor vehicle or other portable or mobile device whereby goods are displayed or dispensed.

(m) **Wholesale business** means the selling of goods in gross to retail businesses and not by the small quantity or parcels to consumers thereof. Wholesale business includes wholesaler.

5.20.020 Employing or engaging solicitors. An individual licensed to do business as a solicitor within the City and who employs or engages others to function or perform as solicitors shall furnish the Issuing Officer with the name and address, temporary and permanent, of all such persons employed or engaged in solicitations.

5.20.030 Terms of license and fees.

(a) The term of a solicitor's license or identification card shall be one year. However, at the discretion of the Issuing Officer or at the request of the applicant the term may be for a lesser period. Thereafter, the license, or identification card may be renewed for a period of one

year, any time within thirty days prior to the expiration date of the license or identification card upon application for a renewal.

(b) The fee for a new solicitor's license shall be eighty dollars (\$80.00) for a period of one year or less. The fee for a license renewal shall be seventy dollars (\$70.00).

(c) The fee for a new solicitor's card shall be fifty-five dollars (\$55.00). The fee for an identification card renewal shall be thirty-four (\$34.00). The identification card shall be issued without charge to the applicant who has paid the fee for a solicitor's license.

(d) The appropriate fee shall accompany each application and is nonrefundable. The fees stated in this section are not for revenue purposes but shall be used to defray, in part, the cost of investigation and enforcement of this chapter. **(Ord. 88-783, 5-24-88)**

5.20.040 Contents of license or identification card application.

(a) The applicant for a license and/or identification card shall apply to the Issuing Officer on forms prescribed by the Issuing Officer and may be required to furnish the following information about himself and his proposed activity:

- (1) Name;
- (2) Physical description and three photographs;
- (3) Fingerprints;
- (4) Local address;
- (5) Permanent address;
- (6) Description of the nature of his business;
- (7) Description of the nature of his goods or services to be offered;
- (8) Name and address of employer and a description of the relationship between the applicant and such employer;
- (9) The length of time for which such license is desired;
- (10) A statement of all convictions for all misdemeanors and felonies;
- (11) Such other information as the Issuing Officer shall deem necessary and relevant to a determination of whether a license should be issued pursuant to this chapter.

(b) Upon receipt of an application for a license and/or identification card, the Issuing Officer may send copies of such application to any officer or department which the Issuing Officer deems essential in order to carry out a proper investigation of the applicant. The Issuing Officer may forward fingerprints to the California Bureau of Identification for research.

5.20.050 Additional reasons for application denial, suspension or revocation.

(a) The procedure to follow, except as otherwise provided in this chapter, in obtaining a license or identification card is that set forth in the uniform licensing procedure, set out in Chapter 5.04. In addition to the reasons stated the Issuing Officer may deny, suspend or revoke any application if he finds that the applicant, his agent, representative or employee:

- (1) Is convicted of any misdemeanor involving violation of any statute or ordinance regulating or taxing a business; or
- (2) Is convicted of any crime involving any of the offenses described under California Penal Code Section 290; or
- (3) Is convicted of any crime, the nature of which indicated the applicant's unfitness to act as a solicitor; or
- (4) Who has violated any of the provisions of this chapter; or
- (5) Who makes any false statement or misrepresentations in his application for such license and/or identification card.

(b) For purposes of this section a plea of nolo contendere, or a plea or verdict of guilty, or a finding of guilt by a court, or a forfeiture of bail is deemed to be a conviction whether probation is granted or not.

5.20.060 Issuance of solicitor's license or identification card.

(a) After completing his investigation of the applicant and application, and within thirty days from receipt of such application, the Issuing Officer shall approve or deny the issuance of the license and/or identification card pursuant to the provisions of the uniform licensing procedure.

(b) Upon approval by the Issuing Officer, the license and/or identification card issued to the applicant shall show the physical description of the licensee, his name and address, both temporary and permanent, and with the name of his principal if other than the licensee, and the nature of the business for which the license shall have been issued. The identification card shall show the expiration date of the license and shall contain a photograph of the licensee.

(c) The license shall also contain a statement that the license does not constitute an endorsement by the City or any of its employees, of the purpose of persons conducting the solicitations.

5.20.070 Exemptions. This chapter shall not apply to:

(a) Students from an elementary school or a junior high school, or a high school, or public junior or community college, or public college or public university or any private educational institution listed in Education Code Section 29003, but only while such students are engaged in activity associated with academic or scholastic functions sponsored by and authorized by such schools;

(b) Wholesalers, their representatives, agent or employees calling upon retail businesses, nor to retail businesses when such sales are made in the regular course of business and at the established place of business;

(c) Sales by a farmer or rancher for products produced within the City by such farmer or rancher.

(d) A newspaper as defined in this chapter and its employees.

5.20.080 Exemptions from fees. Applicants for a solicitor's license or solicitor's identification card as described in this section shall be exempt from the appropriate fees.

(a) Veterans of the army, navy, marines or air force as defined in Section 16102 of the Business and Professions Code of the State. Before any such veteran is licensed under this chapter, such veteran shall submit to the Issuing Officer proof of release from active duty under honorable conditions or his honorable discharge from the United States Service or a certified copy thereof.

(b) Solicitors who are engaged exclusively in soliciting orders as an agent or representative of any person or persons engaged in interstate commerce which have their place or places of business outside of the State. Before any such agent or representative is licensed under this chapter, he shall submit to the Issuing Officer satisfactory identification and interstate commerce credentials from the person represented, and also comply with the requirements of Section 5.20.040.

5.20.090 Identification card exhibited at all times. Every person licensed under this chapter while engaged in the business for which licensed shall display on the front of his person his identification card in a manner and at a location allowing such identification card to be easily seen and read by any other person and upon demand by any peace officer shall exhibit such identification card.

5.20.100 Hours of business. No person shall do business as a solicitor from eight p.m. until eight a.m. local time except by appointment.

5.20.110 Prohibited vending.

(a) No solicitor shall contact or attempt to contact any occupant of any house or dwelling where the owner or occupant of the house or dwelling has posted at the front of the house or dwelling, printed with letters not less than one inch in height, and at a location which is unobstructed and clearly visible from the normal entrance way to such house or dwelling, a sign or placard prohibiting such soliciting.

(b) No solicitor shall contact or attempt to contact any member of the public on any private commercial property which is normally open to the public where the owner or legal occupant thereof has posted at all entrances thereto, and printed with letters not less than one inch in height, and at a location which is unobstructed and clearly visible by all persons entering such property, a sign or placard prohibiting such soliciting.

ARTICLE II. CHARITABLE SOLICITATIONS

5.20.120 Purpose. The City Council declares that the purpose of this chapter is to safeguard the public against fraud, deceit and imposition, and to foster and encourage fair solicitations or sales solicitations for charitable purposes, wherein the person being solicited will know what portion of the money will actually be utilized for charitable purposes.

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

(a) **Charity** includes any nonprofit community organization, fraternal, benevolent, educational, philanthropic, or service organization, governmental employee organization, any person who solicits or obtains contributions solicited from the public for charitable purposes, and any person who holds any assets for charitable purposes.

(b) **Sale** includes a gift made with the hope or expectation of monetary compensation.

(c) **Sales solicitation for charitable purposes** means the sale of, offer to sell, or attempt to sell any advertisement, advertising space, book, card, chance, coupon device, magazine subscription, membership, merchandise, ticket of admission or any other thing or service in connection with which:

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

(2) The name of any charity, philanthropic or charitable organization is used or referred to in any such appeal as an inducement for making any such sale; or

(3) Any statement is made to the effect that such gift or any part thereof will go to or be used for any charitable purposes or organization.

(d) **Solicitation for charitable purposes** means any request, plea, entreaty, demand, or invitation, or attempt thereof, to give money or property, in connection with which:

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

(2) The name of any charity, philanthropic or charitable organization 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 such gift or any part thereof will go to or be used for any charitable purpose or organization.

A solicitation for charitable purposes, or a sale, offer or attempt to sell for charitable purposes, includes the making or disseminating or causing to be made or disseminated before the public in this State, in any newspaper or other publication, or in any determining device, or by public outcry or proclamation or in any other manner or means whatsoever any such solicitation.

5.20.140 Completed solicitation. A solicitation is completed whether or not the person making or receiving the solicitation receives or makes any contribution or makes any sale or purchase referenced to in this chapter.

5.20.150 Solicitation requirements.

(a) Prior to any solicitation or sales solicitation for charitable purposes, the solicitor or seller shall exhibit to the prospective donor or purchaser a card entitled "Solicitation or Sale for Charitable Purposes Card." The card shall be signed and dated under penalty of perjury by an individual who is a principal, staff member, or officer of the soliciting organization. The card

shall give the name and address of the soliciting organization or the person who signed the card and the name and business address of the paid individual who is doing the actual soliciting.

(b) In lieu of exhibiting a card, the solicitor or seller may distribute during the course of the solicitation any printed material, such as a solicitation brochure, provided such material complies with the standards set forth below, and; provided, that the solicitor or seller informs the prospective donor or purchaser that such information as required below is contained in the printed material.

(c) Information on the card or printed material shall be presented in at least ten-point type and shall include the following:

(1) The name and address of the combined campaign, each organization, or fund on behalf of which all or any part of the money collected will be utilized for charitable purposes;

(2) If there is no organization or fund, the manner in which the money collected will be utilized for charitable purposes;

(3) The amount, stated as a percentage of the total gift or purchase price, that will be used for direct fund raising expenses. If paid fund raisers are paid a set fee rather than a percentage of the total amount raised, the card shall show the total cost that is estimated will be used for direct fund raising expenses. If the solicitation is not a sale solicitation, the card may state, in place of the amount of fund raising expenses, that an audited financial statement of such expenses may be obtained by contacting the organization at the address disclosed;

(4) The non-tax-exempt status of the organization or fund, if the organization or fund for which the money or funds are being solicited does not have a charitable tax exemption under both federal and State law;

(5) The percentage of the total gift or purchase price which may be deducted as a charitable contribution under both federal and State law. If no portion is so deductible, the card shall state that "This contribution is not tax deductible."

(d) Knowing and willful noncompliance by any individual volunteer who receives no compensation of any type from, or in connection with, a solicitation by any charitable organization shall subject the solicitor or seller to the penalties of this chapter.

(e) When the solicitation is not a sales solicitation, any individual volunteer who receives no compensation of any type from, or in connection with, a solicitation by any charitable organization, may comply with the disclosure provisions by providing the name and address of the charitable organization on behalf of which all or any part of the money collected will be utilized for charitable purposes for which the solicitation is made, and by stating to the person solicited that information about revenues and expenses of such organization, including its administration and fund raising costs, may be obtained by contacting the organization's office at the address disclosed. Such organization shall provide such information to the person solicited within seven days after receipt of the request. If the volunteer is ten years of age or younger, he is not required to make any disclosures.

5.20.160 Initial solicitation without direct personal contact. If the initial solicitation or sales solicitation is made by radio, television, letter, telephone or any other means not involving direct personal contact with the person solicited, this solicitation shall clearly disclose the information required by Section 5.20.150. This disclosure requirement shall not apply to any radio or television solicitation of sixty seconds or less. If the gift is subsequently made or the sale is subsequently consummated, the solicitation or sale for charitable purposes card shall be mailed to or otherwise delivered to the donor, or to the buyer with the item or items purchased.

5.20.170 Registration required. Any person or organization engaging in any regulated activity set forth in Sections 5.20.150 and 5.20.160 shall register with the Issuing Officer. Registration shall be done on a form prescribed by the Issuing Officer and shall be deemed completed once the following information is provided:

(a) The full name, mailing address and telephone number of the person or organization sponsoring, promoting or conducting the proposed solicitations;

(b) The full name, mailing address and telephone number of the individual person or persons who will have supervision of and responsibility for the proposed solicitations;

(c) The subject matter of the proposed solicitations, and the purpose thereof;

(d) A description of the proposed solicitation indicating the type of communication to be involved; and

(e) The dates and hours which the solicitations are proposed to begin, and the expected duration of the solicitations.

5.20.180 Financial records. The financial records of a soliciting organization shall be maintained on the basis of generally accepted accounting principles as defined by the American Institute of Certified Public Accountants and the Financial Accounting Standards Board.

5.20.190 Inapplicability of article. The provisions of this chapter shall not apply to solicitations, sales, offers, or attempts to sell within the membership of a charitable organization or upon its regular occupied premises, nor shall it apply to funds raised as authorized by Section 326.5 of the Penal Code.