



## REPORT TO CITY COUNCIL

**DATE:** AUGUST 13, 2014

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** GREG RAMIREZ, CITY MANAGER 

**BY:** MIKE KAMINO, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT 

**SUBJECT:** CONDUCT A PUBLIC HEARING AND INTRODUCE FOR FIRST READING ORDINANCE NO. 14-410, AMENDING MUNICIPAL CODE SECTIONS 4126, 6800, 6802(d)(1), AND 6816(b) TO DEFINE AND REGULATE DOOR-TO-DOOR SOLICITATION, AMEND THE DEFINITION OF "BUSINESS" FOR THE PURPOSE OF OBTAINING A BUSINESS LICENSE, REQUIRE PERSONS ENGAGED IN DOOR-TO-DOOR SALES FOR PROFIT TO OBTAIN A BUSINESS LICENSE, AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CASE NO. 14-ZOA-003) (CITY OF AGOURA HILLS, APPLICANT)

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Staff is requesting the City Council conduct a public hearing to introduce Ordinance No. 14-410 for first reading. The City is the applicant for this Ordinance which amends the Municipal Code to define and regulate door-to-door solicitation. Other proposed amendments include a new definition of "business" for the purpose of obtaining a business license, and requiring persons engaged in door-to-door sales for profit to obtain a business license.

Is has been brought to staff's attention that the number of door-to-door solicitors has recently increased in residential neighborhoods of the City, raising concerns of residents and requests for enforcement. Current Municipal Code requirements related to door-to-door solicitation are limited and essentially address only peddling near parks, schools and the public right-of-way, and the distribution of handbills. To address this matter and provide operational standards and requirements specifically relating to door-to-door solicitation and sales, staff has prepared the attached draft Ordinance for the City Council's consideration. Proposed new text within the draft Ordinance is underlined, and "strike-throughs" designate deleted text.

The Ordinance includes the addition of a new Municipal Code section (4126), in order to define "door-to-door" solicitation as any person traveling by foot, vehicle, or any other type of conveyance, who goes from house-to-house, or business-to-business, for any purpose, including but not limited to: a) engaging in door-to-door sales; b) conducting a survey or poll; c) soliciting opinions; d) requesting donations; or e) distributing or

disseminating information or materials (including political campaigning and dissemination of religious materials). Door-to-door sales are the only type of solicitation that would be subject to a business license and background check. However, any person conducting door-to-door solicitation as defined in the Ordinance, including door-to-door sales, would be subject to the following operational restrictions:

- 1) Solicitation would be prohibited in any dwelling or place of business where there is a sign posted indicating that the occupants do not wish to be solicited or disturbed.
- 2) Irrespective of whether a sign is posted at a dwelling or place of business, no person could return or refuse to leave after being asked to leave, or warned, or told that he or she is unwelcome or may not re-enter private property.
- 3) As currently drafted and recommended by the City Council Legislative Subcommittee, no person would be allowed to solicit between the hours of 8:00 p.m. and 9:00 a.m. during daylight saving time, and 6:00 p.m. to 9:00 a.m. during standard time.

As noted in Section 6816(b)(r) of the Agoura Hills Municipal Code (Section 4 of the draft Ordinance), "Peddling-Solicitation" is currently referenced together as a business requiring a license and background check. Staff recommends striking "solicitation" from this reference and, instead, require business license and background checks for any persons or organizations, including non-profit organizations, conducting actual "door-to-door sales" (Section 6816(b)(x)). In accordance with adopted Business License Ordinance requirement for all businesses to display their business license, the proposed Ordinance would require door-to-door sales solicitors to also carry their City business license. Staff anticipates this requirement to assist the Sheriff's Department, should they receive complaints from residents or businesses. Staff would note that non-profit organizations would continue to be exempt from paying business license fees. The City cannot, however, exempt non-profit organizations from obtaining a business license for door-to-door sales while requiring a business license from for-profit organizations.

Another provision of the draft Ordinance, as noted in Section 2, is a new definition for the term "business." Staff is recommending "business" be amended to clarify that it pertains to sales transactions, specifically to "any activity conducted or engaged in for gain, profit, or livelihood, whether or not the same has a fixed place of business in the City." The current definition also applies to such activities, whether or not a gain or profit is earned, and staff recommends that reference be deleted.

Staff also recommends the fee exemption provisions of the Business License Ordinance be amended, as shown in Section 3 of the Draft Ordinance. The Business License Ordinance currently allows for fee exemptions for non-profit organizations and businesses that are exempt by law, which is somewhat redundant. The proposed fee exemption text amendment would continue to apply to non-profit organizations, as well as any other entity that is exempt by law. The business license fee exemption, as

drafted, would state: "Businesses that are exempt from paying fees under the United States Constitution, the California State Constitution, or under the laws of the State of California, are required to obtain a business license but shall be exempt from paying the business license fee."

The draft Ordinance was reviewed by the City Council Legislative Sub-Committee on July 21, 2014. At the request of staff, the Los Angeles County Sheriff's Department also reviewed the draft Ordinance and did not recommend any changes as proposed. Enforcement issues on private property would be referred to the Sheriff's Department. City staff would assist with enforcement issues pertaining to business license requirements.

Staff concludes that it can be seen with certainty that there is no possibility that the adoption of the Ordinance may have a significant effect on the environment. The adoption of this Ordinance merely establishes regulations pertaining to door-to-door solicitation and requires a business license for conducting door-to-door sales. It is, therefore, exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations.

## **RECOMMENDATION**

Staff respectfully recommends the City Council conduct a public hearing, introduce, read by title only, and waive further reading of Ordinance No. 14-410, amending Municipal Code Sections 4125, 6800, 6802(d)(1) and 6816(b) to define and regulate door-to-door solicitation, amend the definition of "business" for the purposes of obtaining a business license, require persons engaged in door-to-door sales for profit to obtain a business license, and making a finding of exemption under the California Environmental Quality Act.

Attachment: Ordinance No. 14-410

ORDINANCE NO. 14-410

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING THE AGOURA HILLS MUNICIPAL CODE TO DEFINE AND REGULATE DOOR-TO-DOOR SOLICITATION, AMENDING THE DEFINITION OF "BUSINESS" FOR THE PURPOSE OF OBTAINING A BUSINESS LICENSE, REQUIRING PERSONS ENGAGED IN DOOR-TO-DOOR SALES FOR PROFIT TO OBTAIN A BUSINESS LICENSE, AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby adds a new Section 4126 to Chapter 1 of Article IV of the Agoura Hills Municipal Code to read as follows:

**"4126. Door-to-Door Solicitation.**

Door-to-Door Solicitation means the act of any person traveling by foot, vehicle, or any other type of conveyance, who goes from house to house, or business to business, for any purpose, including but not limited to: engaging in door-to-door sales, conducting a survey or poll, soliciting opinions, requesting donations, or distributing or disseminating information or materials.

All persons, organizations or associations engaged in door-to-door solicitation shall adhere to the following:

- (a) No person shall engage in door-to-door solicitation at any place of business, or any dwelling (including but not limited to a house, apartment, or condominium), where there is a sign posted in a conspicuous location indicating "No Solicitations," "Do Not Disturb," or other words indicating that the occupants do not wish to be solicited or in any way have their privacy disturbed.
- (b) Irrespective of whether a "No Solicitation," "Do Not Disturb" or similar sign is posted on a private residence or place of business, no person shall return or refuse to leave after being asked to leave if a homeowner or occupant has previously warned, or is presently warning, a person that he or she is unwelcome or may not re-enter private property.
- (c) No person shall engage in door-to-door solicitation at any place of business, or any dwelling (including but not limited to a house, apartment, or



condominium) between the hours of 8:00 p.m. and 9:00 a.m. during daylight saving time, and 6:00 p.m. and 9:00 a.m. during standard time"

**SECTION 2.** The City Council hereby amends the definition of "Business" in Agoura Hills Municipal Code Section 6800 to read as follows, with all other definitions to remain unchanged:

~~"Business means any employment, avocation, occupation, profession, trade, calling, lawful game, show, exhibition, event, venture, fund-raising activity, commercial enterprise, company, corporation, joint enterprise, place of business, partnership or other activity or enterprise engaged in for gain, profit, benefit, advantage, or livelihood, whether or not a gain, profit, benefit advantage or livelihood is earned by such business~~ the conduct of any occupation, profession, trade, vocation, commercial enterprise, or other activity conducted or engaged in for gain, profit, or livelihood, whether or not the same has a fixed place of business in the city."

**SECTION 3.** The City Council hereby amends Agoura Hills Municipal Code Section 6802(d)(1) to read as follows, with all other provisions to remain unchanged:

~~"(d) Fee exemption.~~

- ~~(1) The following businesses shall be exempt from paying the business license fee but are still required to obtain a business license:~~
- ~~a. Non-profit and charitable organizations;~~
  - ~~b. Businesses exempt from paying fees under the Constitution of the United States or State of California, or under the laws of the State of California.~~

Businesses that are exempt from paying fees under the United States Constitution, the California Constitution, or under the laws of the State of California, are required to obtain a business license but shall be exempt from paying the business license fee."

**SECTION 4.** The City Council hereby amends Agoura Hills Municipal Code Section 6816(b) to read as follows, with all other provisions to remain unchanged:

~~"b. Category C Businesses – Criminal Background Check Required.~~

Upon receipt of an application for one of the following businesses, the Director or his or her designee shall: (1) coordinate with several governmental entities to ensure compliance with all applicable state and county codes as deemed necessary by the Director, and may obtain reports from the Building and Safety Department, Fire Department, County Animal Control, County Environmental Health Department, County Health Department, and any other agencies he or she deems necessary to determine if the criteria for issuance

of a business license have been met; and (2) conduct an investigation and criminal background check on the applicant(s):

- a. Acupressure and acupressure technicians;
- b. Adult businesses (as defined in subsection 9120.1.A.G of this Code);
- c. Billiard room;
- d. Bookstore;
- e. Carnival;
- f. Dance;
- g. Entertainment;
- h. Exhibition;
- i. Game arcade;
- j. Gun dealer;
- k. Health gym/spa;
- l. Locksmith;
- m. Massage establishment owner (owns five (5) percent or more of the business and not certified under state massage therapy laws);
- n. Model studio;
- o. Motor vehicle repair;
- p. Outdoor festival;
- q. Pawnbrokers and second hand dealers;
- r. Peddling —~~solicitation~~;
- s. Psychic reading;
- t. School, private;
- u. Taxi cab driver (as defined in Section 7601-7618 of this Code);
- v. Taxi cab operator (as defined in Section 7601-7618 of this Code);
- w. Theatre;

x. Door-to-Door Sales."

**SECTION 5. CEQA.** The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment because the adoption of this Ordinance merely establishes regulations pertaining to door-to-door solicitation and requires a business license for conducting door-to-door sales. It is therefore exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations.

**SECTION 6. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

**SECTION 7. Certification and Posting.** The City Clerk of the City of Agoura Hills shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law. This Ordinance shall go into effect on the 31st day after its adoption.

PASSED, APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2014, by the following vote to wit:

AYES: ( )  
NOES: ( )  
ABSENT: ( )  
ABSTAIN: ( )

CITY OF AGOURA HILLS:

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William D. Koehler, Mayor

ATTEST:

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Kimberly M. Rodrigues, MMC  
City Clerk

APPROVED AS TO FORM:

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Candice K. Lee  
City Attorney