

ORDINANCE NUMBER 1030

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AMENDING CHAPTER 5.06 OF THE PERRIS MUNICIPAL CODE PERTAINING TO HAWKERS, PEDDLERS, AND SOLICITORS AND ITINERANT MERCHANTS

WHEREAS, Article XI, Section 7 of the California Constitution confers on cities the power to make and enforce within limits all local police, sanitary and other ordinances not in conflict with general laws; and

WHEREAS, the regulation of hawkers, peddlers, and solicitors and itinerant merchants are within the police powers of the City; and

WHEREAS, the City Council of Perris ("City Council") determines that regulations for vending are essential to maintain the health, safety and welfare of the citizens of Perris; and

WHEREAS, the regulation of hawkers, peddlers, and solicitors and itinerant merchants is necessary for the needs of the business community are necessary to preserve the character and image of the community as identified in the General Plan.

NOW, THEREFORE, the City Council of the City of Perris does ordain as follows:

Section 1. That the above recitals are true and correct.

Section 2. The City Council does hereby find, determine and declare that:

- A. The adoption of this ordinance will not have a significant impact on the environment.
- B. Negative Declaration Number 2059 reflects the independent judgement of the City.

Section 3. The City Council hereby adopts Negative Declaration Number 2059.

Section 4. The Perris Municipal Code Chapter 5.06 is hereby deleted in its entirety and replaced as follows:

Chapter 5.06

PEDDLERS AND SOLICITORS

Sections:

- 5.06.010 Definitions.
- 5.06.030 License--Required.
- 5.06.060 License--Applications.
- 5.06.090 License--Application processing.
- 5.06.120 License--Issuance.
- 5.06.150 License--Badges.
- 5.06.180 License--Voiding.
- 5.06.210 License--Transfer prohibited.
- 5.06.240 License--Limitations on employers.
- 5.06.270 License--Revocation, suspension.
- 5.06.300 License--Fees.
- 5.06.330 License--Exemptions for charitable, religious and nonprofit organization required to register.
- 5.06.360 Registration for charitable, religious and nonprofit organization--Procedure.

- 5.06.390 Solicitation or sales solicitation for charitable purposes--Disclosure requirements--Noncompliance by volunteer solicitor.
- 5.06.420 Accounting principles for financial records.
- 5.06.450 Use of sound-making, sound-amplifying devices.
- 5.06.480 Soliciting near school areas.
- 5.06.510 Prohibition--Temporary outdoor event.
- 5.06.540 Provisions nonexclusive.
- 5.06.570 License--Expiration.
- 5.06.600 Hours of operation at hotels and dwelling units.
- 5.06.630 Solicitations prohibited at posted premises.
- 5.06.660 Vehicle regulations.
- 5.06.660 Regulation of food vendors
- 5.06.720 Pushcart regulations

- 5.06.750 Exemptions from chapter.
- 5.06.780 Violation--Penalty.

5 06 010Definitions.

For purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

A. “Peddler” means a hawker, vendor or other person who, without appointment thereat, goes from house to house, place to place or in or along the streets of the city selling and making immediate delivery, or offering for sale and immediate delivery, any goods, wares, merchandise or anything of value in the possession of the peddler to persons other than manufactures, wholesalers, jobbers or retailers in such commodities.

B. “Solicitor” means a person engaged in soliciting, canvassing, or taking orders from house to house or from place to place or by telephone or by any other means of communication for any goods, wares, merchandise, or any article to be delivered in the future or for services to be performed in the future or making, manufacturing, or repairing any article whatsoever for future delivery or subscriptions to periodicals or tickets of admission or entertainment’s or memberships in any club.

C. “Pushcart” means any wagon, cart, or similar wheeled container, not a “vehicle” as defined in the Vehicle Code of the State of California, from which food or beverage is offered for sale to the public.

5.06.030 License--Required. No person, whether or not a resident of the city, or whether or not the person maintains or is employed at an established place of business, shall engage in the city in the business of peddler or solicitor without first obtaining a license therefor, with the exception of charitable, religious and nonprofit organizations as set forth in Section 5.06.330 of this chapter.

5.06.060 License--Applications. Any person desiring to obtain the license by this chapter shall make a written application to the finance director, signed under penalty of perjury, setting forth the following information:

A. The name of the applicant;
B. The residential address of the applicant;
C. The business address of the applicant and the name of the business and names of the employers;

D. The residential and business telephone numbers of the applicant;
E. The type of business activity;

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F. The California or out-of-state driver's license number or the applicant's Department of Motor Vehicles identification number;

G. The applicant's social security number;

H. A physical description of the applicant;

I. A statement as to whether or not the applicant has been convicted of any felony or misdemeanor, exclusive of city or county code violations and violations of the Vehicle Code of the state not constituting a felony, the nature of the offense, and the place, date and disposition of the charge, including the penalty assessed;

J. A statement as to whether or not the applicant has ever had a license of any kind suspended or revoked and the circumstances surrounding the suspension or revocation;

K. A statement as to the number of vehicles used in his or her trade, and from which the products of the applicant are sold or delivered and the type, make, year of model and license numbers of all such vehicles;

L. The names of at least two reliable persons residing in Riverside County, California, who will certify as to the applicant's good character and business reputation, or, in lieu of the names of such references, such other available evidence as to the good character and business reputation of the applicant.

5.06.090 License--Application processing. The application for the license shall not be accepted for processing if it is incomplete.

5.06.120 License--Issuance. Within ten working days after the receipt of a completed application, the finance director shall issue a license.

5.06.150 License--Badges. The finance director shall issue to each licensee at the time of delivery of his or her license a badge, which shall be worn continuously by the licensee on the front of his or her hat or outer garment in such a way as to be conspicuous at all times while the licensee is conducting business in the city pursuant to such license. The badge shall bear the appropriate words, i.e., "licensed solicitor," or "licensed peddler" the period for which the license is issued, the number of the license in letters and figures clearly discernible. Each licensee shall provide a two inch by two inch (2"X2") color passport photograph at the time of issuance of the license for purpose of affixing to said badge for identification.

5.06.180 License--Voiding. Any license issued pursuant to the provisions of this chapter shall be void from the date of issuance if any statement or information submitted by the applicant pursuant to the provisions of this chapter is untrue. This provision is in addition to any criminal penalties for perjury, which may be applicable.

5.06.210 License--Transfer prohibited. No license issued under provisions of this chapter shall be used or worn at any time by any person other than the person to whom it is issued. The license shall show the name and description of the licensee, his or her address, the name and address of the principal, if any, and the nature of the business for which the license is issued. The license shall be signed by the licensee in ink and shall bear an impression of his or her right index finger.

5.06.240 License--Limitations on employers. One license will be sufficient for any person engaging in more than one of the businesses defined in this chapter, irrespective of the number of bona fide employers or businesses designated in the license. No licensee shall engage in any business not designated in the license, or in any business for an employer not designated in the license, unless and until such licensee amends his or her application to designate such business or employer.

5.06.270 License—Revocation, suspension.

A. Any licensee who violates any provisions of this chapter is liable to have his or her license suspended or revoked by the city council. The city council shall, also, have the right to suspend or revoke such license whenever it is shown to its satisfaction that the activities so licensed are being conducted in a manner which is detrimental to the public health, morals, peace, welfare or safety of the community; provided, however, that no suspension or revocation shall be ordered until the city council has, upon its own motion, served or caused to be served upon the licensee a notice specifying the grounds for said proposed suspension or revocation and fixing a time, date and place at which the city council shall hear and determine the factual basis for the grounds of the proposed suspension and revocation, which time and date shall not be less than three days from the date of the service of the notice, at which time, date and place the licensee shall have the opportunity to be heard and to make his or her defense against.

any complaints and allegations made as to his or her activities pursuant to this chapter; and provided, further, however, that when such license is suspended or revoked, the city council shall notify the

B. licensee in writing and give the reason for such suspension and revocation. The action of the city council shall be final.

D. When a license has been revoked, no other license shall be issued under the provisions of this chapter to the same licensee within one calendar year of the date of revocation.

5.06.300 License--Fees.

A. At the time the application is filed with the finance department, the applicant shall pay a fee sufficient to cover the cost the city incurs for processing the application, including all costs incidental to the issuance of the license, as well as investigation, inspection, administration, regulation, maintenance of a system of supervision and enforcement.

B. The amount of the fee for this license shall be that amount established for businesses with no fixed location which amount shall be set by resolution of the city council, as amended from time to time.

C. Each individual peddler, or solicitor whether or not such person maintains or is employed by a business which has a business license from the city, must obtain his or her own individual license in order to engage in business in the city.

D. Senior citizens over the age of sixty-five, juveniles under the age of eighteen and veterans physically unable to obtain livelihood by manual labor who qualify under Sections 16001 and 16001.5 of the California Business and Professions Code shall be exempt from paying such fee.

5.06.330 License--Exemptions for charitable, religious and nonprofit organization required to register. Any person soliciting on behalf of any institution or organization recognized by the tax board of the state and the Internal Revenue Service of the United States which institution or organization is conducted wholly for the benefit of charitable, religious or nonprofit purposes and from which profit is not derived, either directly or indirectly, by any person, shall be exempt form

the requirements of a solicitation license, but such institution or organization shall be required to register with the finance director in accordance with this chapter. There shall be no fee for such registration.

5.06.360 Registration for charitable, religious and nonprofit organization--Procedure. Any institution or organization desiring to register as a charitable, religious or

nonprofit organization shall submit a registration form to the finance director prior to the commencement of any solicitation campaign by any representative of such organization setting forth the following information:

- A. The name of the organization;
- B. The type or general description of the organization;
- C. The address and telephone number of the organization
- C. The duration of the activity, which may not exceed one year per registration;
- E. The approximate number of solicitors to be used during the campaign;
- F. The approximate scope of the solicitation in terms of locations within the city which will be solicited;
- G. The signature of the registrant on behalf of the organization and his or her name, address and telephone number;
- H. The date on which the state and federal tax-exempt status was granted, and a copy of the organization's state and federal nonprofit status document shall be attached to the application.

5.06.390 Solicitation or sales solicitation for charitable purposes—

Disclosure requirements--Noncompliance by volunteer solicitor 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. 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. 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 charitable purposes;
4. 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 fundraising expenses;
5. If the solicitation is not a sale solicitation, the card may state, in place of the amount of fundraising expenses, that an audited financial statement of such expenses may be obtained by contacting the organization at the address disclosed;
6. 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 laws;
7. 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";

8. If the organization making the solicitation represents any nongovernmental organization by any name which includes, but is not limited to, the term "officer, peace officer," "police," "law enforcement, reserve officer," "deputy," "California Highway Patrol," "highway patrol" or "deputy sheriff," which would reasonably be understood to imply that the organization is composed of law enforcement personnel, the solicitor shall give the total number of members in the organization and the number of members working or living within the city where the solicitation is being made, and if the solicitation is

for advertising, the statewide circulation of the publication in which the solicited ad will appear.

B. Noncompliance by any individual solicitor or seller in connection with a solicitation by any charitable organization shall subject the solicitor or seller to the penalties of the law.

C. When the solicitation is not a sales solicitation, any individual solicitor or seller who receives no compensation in 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, by stating the 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 fundraising 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 calendar days after receipt of the request.

D. A solicitor or seller who receives no compensation of any type from, or in connection with, a solicitation or sale solicitation by a charitable organization which has qualified for a tax exemption under Section 501(c) (3) of the Internal Revenue Code of 1954, and who is eighteen years of age or younger, is not required to make any disclosures pursuant to this section.

5.06.420 Accounting principles for 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.

The disclosure requirements of subsection (C) of Section 5.06.390 shall be based on the same accounting principles used to maintain the soliciting organization's financial records.

5.06.450 Use of sound-making, sound-amplifying devices. No person shall peddle or solicit by driving, operating, propelling, stopping or parking any wagon, cart, automotive vehicle or any other type of conveyance with a sound-making device, sound-amplifying device, or loudspeaker thereof in use or operation or by making any outcry, blowing a horn, ringing a bell or using any sound device or musical instrument

upon any of the streets, alleys, parks or other public places of the city with the purpose of advertising or attracting attention to sell under the following circumstances:

A. Whenever any such sound can be heard for a distance greater than three hundred feet;

B. When passing a hospital at any time or one quarter mile of a church during the hour services are being held therein;

C. Within one-quarter mile of the nearest property line of any property on which a school building is located during the hour's school is in session;

D. Between the hours of 6:00 p.m. and 8:00 a.m. of any day, to which standard time is applicable pursuant to Government Code Section 6807-1 and between the hours of 9:00 p.m. and 8:00 a.m. of any day, to which daylight saving time is applicable pursuant to Government Code Section 6807-3.

5.06.480 Soliciting near school and church areas. No person required to have a license pursuant to the provisions of this chapter shall go to or enter an area within one-fourth mile of any elementary, junior high or high school, public or private, or any church for the purpose of engaging in the business for which he or she has a license.

The provisions of this section shall not apply to any person invited to call at such school or church by the principal of the school or representative of the church or any other authorized person.

5.06.510 Prohibition--Temporary outdoor event. Notwithstanding any other section of this chapter, it is unlawful for any person, except for a nonprofit organization, to sell or offer for sale, any goods, wares, merchandise, magazines, papers or periodicals, or canvas or solicit any other business or

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occupation at any temporary outdoor event, as defined in Section 19.60.120, as long as that person is not part of that event, and if the temporary outdoor event is a parade, within one hundred yards of any parade route on the day of the parade; provided that established indoor businesses along a parade route shall be exempt from the prohibitions of this section.

5.06.540 Provisions nonexclusive. The provisions of this chapter are intended to augment and to be in addition to the provisions of Chapters 5.08 and 5.12 providing for business license taxes and Chapter 9.28 providing for the regulation of loud and unnecessary noises.

5.06.570 License--Expiration. Licenses or permits issued pursuant to this chapter shall expire on the date indicated on the license or permit. Licenses or permits issued pursuant to this chapter that require concurrent approval or inspection by the Riverside County Health Department, shall expire on the dated indicated on the health permit.

5.06.600 Hours of operation at hotels and dwelling units. No person required to have a license pursuant to this chapter or representing an institution or organization required to register pursuant to this chapter, shall go to or enter any residence, hotel or other dwelling place between the hours of 6:00 p.m. and 9:00 a.m. for the purpose of engaging in the business for which he or she has a license or to solicit for which he or she has registered, except upon invitation of the occupant of the dwelling place.

5.06.630 Solicitations prohibited at posted premises. No person required to register under the provisions of this chapter, or required to obtain a license under the provisions of this chapter, shall solicit or attempt to enter upon any premises on which a notice or sign is clearly posted prohibiting solicitation or indicating the owner's or occupant's desire not to be solicited.

5.06.660 Regulations for sales.

It is unlawful for any peddler or solicitor, delivering or offering for sale, any goods, wares, food, merchandise or other products from any vehicle or conveyance within or upon any public street alley, parkway, sidewalk, or other pubic or private property to:

1. Permit any vehicle, or other conveyance from which products are sold to remain standing or stopped, for soliciting purposes, at any place on any public street, alley, parkway, sidewalk, or other pubic or private property in the city for a period of time exceeding five

minutes, except that the provisions of this subsection shall not apply to the sale of foodstuffs to employees of public agencies except schools pursuant to Section 5.06.480 of this chapter, commercial and industrial establishments at or adjacent to such establishments, or to workmen or employees at any construction job site, if the foodstuffs so sold to such persons at such places are so sold to such employees or workmen for immediate consumption at such places; or

2. Make any stop, for the purpose of selling any product, within one thousand feet, measured along the traveled way of any public street or streets, of any commercial establishment which sells such products at retail, except that the provisions of this subsection shall not apply to the sale of foodstuffs to employees of public agencies except schools pursuant to Section

5.06.180 of this chapter, commercial and industrial establishments at or adjacent to such establishments, or to the workmen or employees at any construction job site, if the foodstuffs so sold to such employees or workmen are for immediate consumption at such places.

3. For any peddler or solicitor to sell any goods, wares, food, merchandise or other products from any vehicle or conveyance within or upon any public street except from or at the side of such vehicle or other conveyance, which is nearest to the curb of such street.

5.06.690 Regulation of Sales for Pedestrian Food Vendors

A. No person shall sell or offer for sale any food or beverage from any pushcart on any public street, including parkways or sidewalks, within the City; provided, however, that sales from pushcarts may be made subject to the provisions and conditions of this Chapter. Sales may be made from pushcarts, which are continually moved from place to place and stopped only for a period of time not to exceed ten minutes at any one place, necessary to make bona fide sales to purchasers, subject to the provisions of this Code.

B. No person shall employ, direct, or otherwise cause any other person to sell or offer for sale any food or beverage in violation of this Title.
No pushcart from which food is dispensed shall be located for the purpose of conducting sales within one thousand feet of a business selling food for on-site consumption.

C. No person shall sell or offer for sale any food or beverage from a pushcart in any public park in violation of this Title.

5.06.72 Pushcart Regulations

A. Each pushcart shall have affixed to it in plain view the permit required by this Chapter and the permit required by Chapter 5.04 of this Code.

B. Pushcarts shall not be stationed, for purposes of offering food or beverages for sale, in any location which creates an obstruction to the normal flow of vehicular or pedestrian access to the public streets and sidewalks or within ten (10) feet of any intersection, driveway or building entrance, or in any space designed for vehicular parking.

C. The maximum dimensions of any pushcart shall be six (6) feet in length and four (4) feet in width.

D. The only signs used in conjunction with a pushcart shall be signs affixed to or painted on the pushcart or its canopy.

E. A refuse container of at least four (4) cubic feet capacity shall be provided in or on the pushcart.

F. No loudspeakers, public address system, bells, chimes or other soundmaking device shall be affixed to or used in conjunction with a pushcart that is not in conformance with Section 5.06.450 of this Chapter.

G. No artificial lighting of or on any pushcart is permitted.

H. No sale of any food or beverage to any person who is in a motor vehicle at the time of sale.

5.06.750 Exemptions from chapter. The provisions of this chapter shall not apply to:

A. Merchants and their employees and agents selling or soliciting at established places of business;

B. Persons invited to call upon private residences by the owner or occupant thereof;

C. Persons licensed and regulated by the state pursuant to Sections 12000 et seq. of the Business and Professions Code of the state;

D. Persons selling or soliciting sales of a daily or weekly newspaper as defined in Section 6040.5 of the Government Code of the state;

E. Persons soliciting or canvassing for or against any candidate for public office or any ballot measure;

F. Persons soliciting goods to be shipped from outside the state

G. Seasonal sales of merchandise in the CC and CN zones with a Commercial Temporary Use Permit, not to exceed 30 consecutive days.

H. Sales from Parked Vehicles in public streets in residential areas in accordance with Vehicle Code Section 22455, except with the regulation regarding time and manner of operation set forth in section 5.06.450 of this ordinance.

5.06.780 Violations--Penalty. Any violation of the provisions of this chapter shall be deemed an infraction and punishable pursuant to Section 1.16.010 of this code, unless a defendant has been convicted of three or more violations of this code, in which case the violation shall be deemed a misdemeanor. Violations of this code may result in the confiscation of equipment, vehicles, or sales stock. Said confiscated equipment, vehicles or stock may be returned upon timely payment of any fines imposed

Section 5. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect thirty (30) days after its passage.

ADOPTED, SIGNED and APPROVED this 11th day of August, 1998.

MAYOR OF THE CITY OF PERRIS

Attest:

City Clerk

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
CITY OF PERRIS)

I, Margaret Rey duly elected City Clerk of the City of Perris, California, do hereby certify that the foregoing Ordinance Number 1030 was introduced at a regular meeting thereof held on July 28, 1998, and adopted by the City Council of the City of Perris at a regular meeting thereof held on the 11th day of August, 1998, by the following called vote:

Ayes: Yarbrough, Larragoitiy, Torres, Larios and Landers
Noes: None
Absent: None

CITY CLERK