

ORDINANCE

#2011-08

AN ORDINANCE OF THE BOROUGH OF BOROUGH OF BEACHWOOD COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING THE CODE OF THE BOROUGH AT CHAPTER IV, ENTITLED "GENERAL LICENSING," SO AS TO ESTABLISH SECTION 4.12 ENTITLED "ROADWAY CHARITABLE SOLICITATION"

WHEREAS, pursuant to N.J.S.A. 39:4-60, a municipal governing body may authorize charitable organizations to solicit contributions in the roadway of a highway, other than upon interstate highways or toll roads, subject to the regulations promulgated by the State Department of Transportation in consultation with the Division of Highway Traffic Safety; and

WHEREAS, N.J.A.C. 16:40-1.1 provides that to solicit contributions in the right-of-way of a highway, the charitable organization shall have approval in advance from the respective municipal governing body via ordinance; and

WHEREAS, the governing body desires to allow certain charitable organizations, namely authorized public school parent groups and volunteer first aid and fire companies, to conduct roadside solicitations and to encourage the fund raising efforts of these charitable entities.

NOW THEREFORE, BE IT ORDAINED, by the governing body of the Borough of Borough of Beachwood County of Ocean, State of New Jersey, as follows:

SECTION 1. Chapter IV of the Borough Code, entitled "General Licensing" shall be amended by adding the following:

Roadway Charitable Solicitation

Definitions.

The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

"Authorized Charitable Organization" means the public schools, public school organizations, including but not limited to the Parent-Teacher Organizations, Music Parents Association and Garnet Gull Booster Association, and the Point Pleasant Beach volunteer First Aid Squad and Fire Companies.

“Charitable Solicitation Permit” means a permit issued by the Department pursuant NJAC 16:401.1 *et seq.*

“Department” means the State Department of Transportation.

“Highway” means the public right-of-way whether open or improved or not, including all existing factors or improvements.

“Right-of-way” means State highway property and property rights, including easements, owned and controlled by the Department.

“Roadway Solicitation Permit” means the permit issued by the Borough of Point Pleasant Beach pursuant to this article.

“Shoulder” means the portion of the roadway that lies between the edge of the traveled way and curbline, excluding auxiliary lanes.

“State Highway” means a road owned, taken over, controlled, built, maintained, or otherwise under the jurisdiction of the Department.

“Traveled Way” means the portion of the roadway provided for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

Authorization.

a. Pursuant to N.J.S.A. 39:4-60 and N.J.A.C. 16:40-1.1, authorized charitable organizations are hereby permitted to solicit contributions in the right-of-way of a highway located within the Borough, subject to the provisions and restrictions contained in this chapter.

b. The within authorization is subject to the regulations promulgated by the Department in consultation with the Division of Highway Traffic Safety, as set forth in N.J.A.C. 16:40-1.1 to 11.1.

c. Under no circumstances may an authorized charitable organization conduct a roadway charitable solicitation without first having obtained a permit from the Chief of Police.

Permits.

a. An authorized charitable organization seeking issuance of a roadway solicitation permit shall file an application with the Chief of Police on forms provided by the Chief of Police.

(1). An application for a roadway solicitation permit shall be filed with the Chief of Police not less than seven days before the date upon which it is proposed to conduct such roadway solicitation.

(2). Contents of roadway solicitation permit. The application for a roadway solicitation permit shall set forth the following information:

(a). Name, address and telephone number of the authorized charitable organization seeking to conduct a roadway charitable solicitation.

(b). Date and times upon which roadway solicitation is proposed.

- (c). Method of roadway charitable solicitation (i.e., coin toss using blankets).
 - (d). Specific location or locations of proposed roadway charitable solicitation.
 - (e). Contact person for the authorized charitable organization.
 - (f). Names of the persons (solicitors) conducting the roadway charitable solicitations on behalf of the authorized charitable organization at each proposed location.
 - (g). Any additional information which the Chief of Police shall find reasonably necessary for the fair determination as to whether a permit should be issued.
- b.** If the proposed roadway charitable solicitation is to be conducted upon any county highway or intersection, the authorized charitable organization must submit evidence of approval by the Ocean County Board of Freeholders pursuant to N.J.S.A. 39:4-60.
- c.** If the proposed charitable solicitation is to be conducted upon any state highway or intersection, the authorized charitable organization must submit evidence of approval in the form of a charitable solicitation permit received from the Department under N.J.A.C. 16:40-1.1 et seq.
- (1). The Chief of Police is hereby authorized to sign the charitable solicitation permit on behalf of the Borough.
 - (2). The Chief of Police has been consulted and shall be responsible for supervising the solicitation and enforcing the terms of the charitable solicitation permit.
 - (3). The roadway solicitation permit issued by the Borough and the charitable solicitation permit issued by the Department shall be in the possession of the solicitor for the authorized charitable organization during all times of solicitation and be available for inspection by the state, county and Point Pleasant Beach police enforcement personnel.

General Restrictions and Provisions.

- a.** Solicitation of contributions is prohibited along traffic circles or highway segments determined to be inappropriate in the interest of public safety.
- b.** Solicitation is permitted only at signalized intersections or when the existing traffic control device causes temporary interruption in the flow of normal traffic, such as at the opening of a movable bridge.
- c.** Borough police may suspend solicitation operations at any time if any condition of either permit is violated or if, in a police officer's sole discretion, traffic is being impeded or delayed or the public safety is at risk.
- d** Solicitation shall be subject to the specific terms and conditions of each permit granted.

e Solicitation shall not stop traffic or impede the flow of traffic. Traffic shall already be stopped before solicitation may occur and shall cease while traffic is moving. Use of a flagperson shall be prohibited.

f The authorized charitable organization shall be responsible for cleaning up any debris from the roadway.

g Solicitation shall only be permitted during daylight hours.

h Solicitors shall not drink alcoholic beverages, use drugs, or be under the influence of drugs or alcohol when soliciting. Solicitors shall not harass the public.

i Each person soliciting charitable contributions on behalf of the authorized charitable organization shall be at least 18 years of age.

Safety Criteria.

- a.** All solicitors shall wear safety vests that are in accordance with Department standards.
- b.** Parking of vehicles shall comply with applicable traffic regulations. Off-site parking is recommended.
- c.** Coin tosses using blankets located off the traveled way are the preferred method of solicitation.
- d** The solicitors shall not install any traffic control devices.

Signage Requirements.

- a.** Signs advertising the roadway solicitation are permitted but they must be of temporary construction and break-away to the extent possible.
- b.** Signage shall be a maximum of 16 square feet.
- c.** Signage shall be in accordance with the temporary signage standards contained in the Manual on Uniform Traffic Control Devices.
- d.** At least two warning signs shall be placed as follows:
 - (1).** "CHARITABLE SOLICITATION 500 FEET AHEAD"; and
 - (2).** A second sign following identifying the name of the organization soliciting.
- e** Signs shall not be permitted in the traveled way or medians less than eight feet in width.
- f** All signs warning, noticing or advertising solicitations shall be removed immediately following the solicitation event.

Violations.

Any person guilty of violating a provision of this chapter shall be liable for a fine not to exceed \$100.000 per each day of such violation.

SECTION 2. In the event any section, part or provision of this Ordinance shall be held unconstitutional or invalid by any Court, such holding shall not affect the validity of this Ordinance or any remaining part of this Ordinance other than the part held unconstitutional or invalid.

SECTION 3. All ordinances or parts thereof, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of their inconsistencies.

SECTION 4. This Ordinance shall take effect immediately upon its final passage and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed on first reading at the regular meeting of the Borough Council of the Borough of Borough in the County of Ocean, held on the 20th day of July 2011 and will be considered for second reading and final passage at the regular meeting of said governing body to be held on 17th day of August 2011, at 7:00 p.m. in the Beachwood Municipal Complex located at 1600 Pinewald Rd. Beachwood New Jersey at which time and place any person desiring to be heard will be given an opportunity to be so heard.

Elizabeth A. Mastropasqua