



2014
BERGEN COUNTY BOARD OF CHOSEN FREEHOLDERS
ORDINANCE (Second Reading)

MEMBERS	AYE	NAY	ABSTAIN	ABSENT
DeNicola	✓			
Felice	✓			
Tanelli	✓			
Tedesco	✓			
Voss	✓			
Zur	✓			
Chairman Ganz	✓			
TOTALS	7	—	—	—

JBB
 10/26/14

Offered by: Zur
 Seconded by: Voss
 Approved by: _____

Ordinance No. 14-31
 Date: October 22, 2014
 Page: 1 of 6
 Department/Division: County Counsel
 Purpose: To create a "Roadway Solicitation Ordinance" implementing a process by which charitable organizations can have access to county roadways and/or intersections
 Account No. _____
 Contract No. _____
 Dollar Amount: _____
 Prepared By: MG

Certified as a true copy of an Ordinance introduced and named by the Board of Chosen Freeholders on above date at a Regular Meeting by: *Michele Di'Argi*
Michele Di'Argi Clerk, Board of Chosen Freeholders, Bergen County, New Jersey

**THE "ROADWAY SOLICITATION ORDINANCE" IMPLEMENTING A PROCESS
 BY WHICH CHARITABLE ORGANIZATIONS CAN HAVE ACCESS TO
 COUNTY ROADWAYS AND/OR INTERSECTIONS**

WHEREAS, N.J.S.A. 39:4-60 prohibits and fines soliciting trade or contributions on the "roadway of a highway" unless a charitable organizations has received municipal or county approval as permitted in the aforementioned statute.

WHEREAS, N.J.S.A. 45:17A-20 defines a charitable organization as “(1) any person determined by the federal Internal Revenue Service to be a tax exempt organization pursuant to section 501(c) (3) of the Internal Revenue Code of 1986, 26 U.S.C.S. 501(c) (3); or (2) any person who is, or holds himself out to be, established for any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary purpose, or for the benefit of law enforcement personnel, firefighters or other persons who protect the public safety, or any person who in any manner employs a charitable appeal as the basis of any solicitation, or an appeal which has a tendency to suggest there is a charitable purpose to any such solicitation”; and

WHEREAS, many charitable organizations depend on donations to further their mission; and

WHEREAS, solicitation made on public roadways may assist said charities in furthering a public good; and

WHEREAS, the County seeks to create a “Roadway Solicitation Ordinance” implementing a process by which charitable organizations can have access to county roadways and/or intersections; and

NOW, THEREFORE BE IT ORDAINED, by the County of Bergen as follows:

SECTION I: Roadway Solicitation Ordinance

A. Roadway Solicitation Requirements

- a. Charitable solicitations on designated County roadways and at designated County intersections shall be limited to charitable organizations defined under the provisions of N.J.S.A. 45:17A-20.
- b. Nothing contained within this Ordinance shall circumscribe the State Department of Transportation's regulations promulgated pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., to regulate or prohibit solicitation events on any state highway or any intersection encompassing a state highway.
- c. Prior to being considered for approval of charitable solicitations on designated County roadways and at designated County intersections, the charitable organization must first obtain approval from the local municipality where the organization is situated and/or in which the solicitation activity is to be conducted. In addition, the municipal approval must comply with N.J.S.A. 39:4-60. The charitable organization making the request must present the County Administrator with a copy of the corresponding municipal ordinance and verified municipal approval thirty (30) days prior to the scheduled event along with a completed, dated and executed Bergen County Roadway Solicitation Application as provided in the County of Bergen website. In addition, the charitable organization must agree to the following:

1. All solicitation activities shall be undertaken by persons age 18 or older;
2. Solicitation shall take place only during daylight hours, and participants must wear reflective safety vests in accordance with New Jersey Department of Transportation standards;
3. Solicitors shall not drink alcoholic beverages, use drugs or be under the influence of drugs or alcohol or any substance that can impair their ability to react timely to potential dangers when engaged in solicitation activities;
4. Solicitation shall not stop or impede the flow of traffic. Traffic shall be stopped before solicitation may occur, and solicitation shall cease while traffic is moving. Soliciting organizations shall not use a flagman;
5. The soliciting organizations shall place two warning signs, the first of which shall indicate "charitable solicitation 500 feet ahead" and a second sign following which shall identify the organization conducting the solicitation. Signage shall comply with all requirements contained in N.J.A.C. 16:40-6.1.
6. The County, and its boards, appointees, departments and affiliates assume no responsibility for the sponsorship, direction or control of any fundraising event permitted by this Ordinance. The charitable organization conducting any event hereunder shall assume full and complete responsibility for the sponsorship and control of all aspects of the fundraising event, including the safety and welfare of its member participants as well as members of the public. The County and the Board shall retain all tort claim immunities pursuant to both the New Jersey Claims Act, N.J.S.A. 59:1-1 et seq., and common law. Any charitable organization, as previously defined, availing itself of the activities afforded under this article agrees to indemnify, defend and hold harmless the County, and its departments, agents, servants, and employees from any claims for death, personal injury, property damage or claims of any type that may arise as a result of activities and events conducted by the organization pursuant to this article.

d. All charitable solicitation requests on county roadways shall include the following:

1. The municipal ordinance authorizing the solicitation event;
2. Evidence of approval of the solicitation event by the municipality;
3. A current Certificate of Insurance from a reputable insurance company authorized to transact business in the State of New Jersey which names the County as additional insureds for liability

purposes in an amount not less than One Million Dollars \$1,000,000.00;

4. A signed and notarized Indemnification and Hold Harmless Agreement in a form approved by the County and its risk managers, setting forth the organization's obligation to indemnify, defend and hold harmless the County and its agents, servants and employees.
5. A completed, signed and dated Bergen County Roadway Solicitation Application which includes an agreement to comply with all the requirements set forth in this Roadway Solicitation Ordinance as well as N.J.S.A. 39:4-60 and the regulations promulgated pursuant to the Administrative Procedure Act by the Department of Transportation in consultation with the Division of Highway Traffic.

B. Application Rejection

- a. The application will be rejected if Section I(A) of this Ordinance is not met or if:
 1. There is reason to believe that traffic would be unreasonable impeded, interrupted or delayed.
 2. The turning movements, traffic densities and/or speeds of the particular highway or intersection do not permit the safe interaction between the solicitor and vehicular traffic.
 3. Solicitation would interfere with a construction project or activity.
 4. There exists a public safety concern.

C. Roadway Solicitation Suspension or Termination

- a. The County reserves the right to suspend or terminate solicitation operations at any time if any condition of the permission is violated or if, in the judgment of the County Police, local police or in the judgment of the Bergen County Director of Public Safety, traffic is being impeded or delayed or the public safety is at risk.
- b. Failure to comply with any of the provisions of Title 14 "Roadway Solicitations" of the New Jersey Administrative Code or N.J.S.A. 39:4-60 and/or the regulations of the Department of Transportation previously referenced, may be grounds for immediate termination of the event by the appropriate municipal authorities for the municipality or the Bergen County Director of Public Safety.

D. Roadway Solicitation Event Approvals

- a. All approvals for Roadway Solicitation Events requested by Charitable Organizations shall be made by the County Administrator with the approval of the Board of Chosen Freeholders.

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Section II: 5:00 PM on October 7, 2014 and 5:00 PM on October 22, 2014, at the Bergen County Freeholder Public Meeting Room, Fifth Floor, One Bergen County Plaza, Hackensack, NJ is fixed as the time and place when and where any and all persons interested shall be given an opportunity to be heard concerning the ordinance.

Section III: Pursuant to N.J.S.A. 40:41A-101, this ordinance shall be published at least once in the manner provided in N.J.S.A. 40:41A-142, together with a notice of the introduction thereof and the time and place when and where it will be further considered for final passage. The publication shall be at least 1 week prior to the time fixed for further consideration for final passage.

Section IV: A copy of the proposed ordinance shall also be sent by regular mail to the clerk of each municipality in the county not less than 1 week prior to the date of hearing.

Section V: Prior to the said second reading, a copy of the ordinance shall be posted on the bulletin board or other place upon which public notices are customarily posted in One Bergen County Plaza, and copies of the ordinance shall be made available to members of the general public who shall request such copies.

Section VI: Upon the opening of the hearing, the ordinance shall be given a second reading, which reading may be by title, and thereafter, it may be passed by a majority of the whole number of the Board, with or without amendments, or rejected.

Section VII: Pursuant to N.J.S.A. 40:41A-101, this ordinance shall take effect 20 days after its final passage by the Board and approval by the County Executive.

Section VIII: Upon passage, the ordinance, or the title, together with a notice of the date of passage or approval, or both, shall be published at least once in the manner provided by N.J.S.A. 40:41A-142 of this act.

Section IX: One certified copy of the full text of every ordinance so adopted shall be filed with the clerk of each municipality within the County not later than 10 days after the date of final passage.

Section X: All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

Kathleen A. Donovan

COUNTY EXECUTIVE

APPROVED

REJECTED