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CHAPTER 40. CHARITABLE SOLICITATION ON ROADWAYS

CHAPTER EXPIRATION DATE:

Expires on August 11, 2023.

SUBCHAPTER 1. PURPOSE AND SCOPE

16:40-1.1 Purpose

This chapter provides the guidelines for charitable organizations that shall be permitted to solicit contributions in the right-of-way of a State highway with approval of the Department pursuant to a charitable solicitation permit and the provisions of this chapter.

16:40-1.2 Scope

This chapter applies to charitable organizations, as that term is defined in N.J.S.A. 45:17A-20. Solicitation shall be 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. Charitable solicitation shall not be allowed on traffic circles or highway segments determined to be inappropriate by the Department in the interest of public safety. Charitable solicitation shall not be permitted on interstate highways, freeways, or toll roads maintained by the New Jersey Turnpike Authority or the South Jersey Transportation Authority.

SUBCHAPTER 2. DEFINITIONS

16:40-2.1 Definitions

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

"Charitable organization" means:

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. § 501(c)(3); or

2. Any person who is, or holds himself or herself out to be, established for any benevolent, philanthropic, humane, social welfare, public health, or other charitable 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.

"Charitable purpose" means:

1. Any purpose described in section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3); or

2. Any benevolent, philanthropic, humane, social welfare, public health, or other charitable objective, or an objective that benefits law enforcement personnel, firefighters, or other persons who protect the public safety.

"Charitable solicitation permit" means a permit issued by the Department pursuant to this chapter.

"Department" means the New Jersey Department of Transportation.

"Freeway" means a multi-lane, divided highway having a minimum of two lanes in each direction and limited access.

"Highway" means a public right-of-way, whether open or improved or not, including all existing factors of improvements.

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

"Shoulder" means the portion of the roadway that lies between the edge of the traveled way and curb line, 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.

SUBCHAPTER 3. GENERAL PROVISIONS

16:40-3.1 General provisions and restrictions

(a) All permits for charitable solicitations on a State highway or its intersections must be approved by the Department and in compliance with the provisions of N.J.S.A. 39:4-60 and N.J.A.C. 16:40-4.2.

(b) To obtain approval from the Department, the charitable organization shall obtain a charitable solicitation permit from the Operations Permit Office, subject to the provisions of this chapter.

(c) Charitable solicitation permits shall be granted only to charitable organizations soliciting for charitable purposes.

(d) Each person soliciting charitable contributions on behalf of the charitable organization shall be at least 18 years old.

(e) Solicitation shall be subject to the specific terms and conditions of each permit granted.

(f) Permits shall be in possession of the solicitor during all times of solicitation and be available for inspection by local, county, and State police enforcement personnel.

(g) Solicitation shall be permitted on State right-of-way, but is strongly encouraged to be off the traveled way.

(h) 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 flagmen or any traffic control device, either portable or permanent, shall be prohibited.

(i) The charitable organization shall be responsible for cleaning up any debris from the right-of-way that resulted from the solicitation activity.

(j) Solicitation shall only be permitted during daylight hours.

(k) State, county, local police, or the Department may suspend solicitation operations at any time if any condition of the permit is violated, or, if in the police officer's or the Department's sole discretion, traffic is being impeded or delayed or the public safety is at risk.

(l) 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.

(m) The Department shall not be liable in any civil action for damages for property damage or personal injury arising out of the solicitation activity conducted by charitable organizations in highway right of way.

(n) Permits are valid for 12 calendar days from the start date of the event. Permits will be granted on a first come, first serve basis.

SUBCHAPTER 4. PERMIT ISSUANCE AND EXECUTION

16:40-4.1 Contact information

(a) Contact information for the Operations Permit Office is as follows:

New Jersey Department of Transportation
Operations Permit Office
1035 Parkway Avenue
PO Box 600
Trenton, NJ 08625
(732) 625-4330

16:40-4.2 Application process for permit issuance

(a) An applicant shall complete the application form and submit it to the Operations Permit Office. The form is available on the Department's website at: <http://www.state.nj.us/transportation/eng/forms/>.

(b) An application shall not be considered to have been submitted, and review of a permit application shall not begin until the proper application fee has been submitted.

(c) All applications shall be reviewed and either approved or denied within 30 days of their submission. Upon Department approval for the issuance of a permit, the applicant will be notified in writing and provided with a checklist of further required documentation. The time for the Department review may be extended with the written consent of the applicant.

(d) The following documentation is required:

1. A sealed copy of a municipal ordinance authorizing the signing of the permit on behalf of the municipality by the local police chief or whomever is responsible for municipal police services and states that this entity will be responsible for supervising the solicitation and enforcing the terms of the charitable solicitation permit; and

2. The State highway traffic control plan, documentation of local authority endorsement, local law enforcement commitment for traffic control, and the solicitation route.

(e) The following documentation may be required, if applicable:

(1) If the charitable solicitation is proposed at the intersection of a State highway and a county route, the application form shall also be accompanied by written approval from the county board of chosen freeholders.

(2) If the charitable solicitation is on the border of two or more municipalities and/or counties, municipal ordinances and county freeholder approvals from each municipality and each county shall accompany the application. The county freeholder approvals shall only be required if the conditions set forth in (e) above apply.

(f) The application form, municipal ordinance, and county approval shall specify the location, date, duration, and time of the proposed solicitation. One application form may cover multiple dates during the same calendar year. Seasonal applications are encouraged by the Department.

16:40-4.3 Permit execution

Permits shall be executed upon the Department's receipt of all documentation required by N.J.A.C. 16:40-4.2, as applicable.

SUBCHAPTER 5. SAFETY CRITERIA

16:40-5.1 Safety criteria

(a) All solicitors shall wear safety vests labeled as meeting the ANSI 107-2010 standard performance, incorporated herein by reference, as amended and supplemented, for Class 2 risk exposure. The ANSI standards are available at <http://webstore.ansi.org/>.

(b) Parking of vehicles shall comply with applicable traffic regulations. The Department recommends off-site parking.

(c) The Department strongly recommends coin tosses using blankets located off the traveled way as the safest method of solicitation.

(d) The solicitor shall not install any traffic control devices.

SUBCHAPTER 6. SIGNAGE

16:40-6.1 Signage requirements

(a) Signs advertising the roadway solicitation are permitted, but they must be of a temporary construction and breakaway to the extent possible.

(b) Signs 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 for Streets and Highways (MUTCD), 2009 edition, which is incorporated herein by reference, as amended and supplemented. The MUTCD is available on the Federal Highway Administration website at: <http://mutcd.fhwa.dot.gov/> or on the American Association of State Highway and Transportation Officials (ASHTO) website at: <https://bookstore.transportation.org/>.

(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 in medians less than eight feet in width.

(f) All signs warning, noticing, or advertising a solicitation shall be removed immediately following the solicitation event.

SUBCHAPTER 7. SPECIAL CONDITIONS

16:40-7.1 Special permit conditions

The Department may impose special conditions on any charitable solicitation permit to preserve and protect the public safety and the free flow of traffic on its roadways.

SUBCHAPTER 8. PERMIT DENIAL

16:40-8.1 Criteria for denial

(a) The Department may deny a permit based on the following reasons:

1. To ensure that traffic flow is not unreasonably impeded, interrupted, or delayed;
2. The design of the particular highway and/or intersection, turning movements, traffic densities, and/or speeds do not permit the safe interaction between the solicitor and vehicular traffic;
3. The solicitation would interfere with construction activity; or
4. To protect the public safety.

(b) If the Department denies a permit, the notice of denial will set forth the reasons for the denial and the applicant will be notified in writing.

SUBCHAPTER 9. APPEALS

16:40-9.1 Appeal process

An applicant who has been denied a charitable solicitation permit may appeal the denial to the Director of Permits, Electrical and Claims Unit. The applicant shall submit a written request for reconsideration, within 30 days of the denial of a permit. The Director of Permits, Electrical and Claims Unit may grant, upon request, an informal meeting with representatives of the charitable organization. The Director shall render a decision, in writing, to the organization within 15 days of such meeting or within 30 days of receipt of the written request, if there is no meeting.

SUBCHAPTER 10. FEES

16:40-10.1 Fee schedule

(a) The fee schedule is as follows:

1. Application fee, \$ 25.00; and
2. Permit fee, \$ 10.00.

(b) Fees are nonrefundable.

SUBCHAPTER 11. VIOLATIONS

16:40-11.1 Penalty for violations

Pursuant to N.J.S.A. 39:4-60, any person guilty of violating any provision of this chapter shall be liable for a fine not to exceed \$ 100.00 for each day of the violation. Tickets may be issued by the State, county, or local police. The Department, in the name of the State, may recover fines in any court of competent jurisdiction. The State may recover the cost of prosecution in any civil action.

APPENDIX (RESERVED)