

**CHAPTER 40**  
**CHARITABLE SOLICITATION ON ROADWAYS**

**Authority**

N.J.S.A. 27:1A-6, 27:1A-7, and 39:4-60.

**Source and Effective Date**

R.2009 d.97, effective February 23, 2009.  
See: 40 N.J.R. 6408(a), 41 N.J.R. 1507(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 40, Charitable Solicitation on Roadways, expires on August 21, 2016. See: 48 N.J.R. 575(a).

**Chapter Historical Note**

Chapter 40, Snow and Ice Control, became effective prior to September 1, 1969.

Chapter 40, Snow and Ice Control, was repealed by R.1990 d.158, effective March 5, 1990. See: 22 N.J.R. 20(a), 22 N.J.R. 837(a).

Chapter 40, Charitable Solicitation on Roadways, was adopted as R.1998 d.275, effective June 1, 1998. See: 30 N.J.R. 528(a), 30 N.J.R. 2066(b).

Chapter 40, Charitable Solicitation on Roadways, was readopted as R.2003 d.435, effective October 9, 2003. See: 35 N.J.R. 2788(a), 35 N.J.R. 5126(a).

Chapter 40, Charitable Solicitation on Roadways, was readopted as R.2009 d.97, effective February 23, 2009. As a part of R.2009 d.97, Subchapter 1, Scope, was renamed Purpose and Scope, effective April 6, 2009. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 40, Charitable Solicitation on Roadways, was scheduled to expire on February 23, 2016. See: 43 N.J.R. 1203(a).

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**SUBCHAPTER 1. PURPOSE AND SCOPE**

**16:40-1.1 Purpose**

Charitable organizations 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. Charitable solicitation shall not be permitted on interstate highways, freeways, toll roads maintained by the New Jersey Turnpike Authority or the South Jersey Transportation Authority and traffic circles or highway segments determined to be inappropriate by the Department in the interest of public safety. 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.

Amended by R.2009 d.97, effective April 6, 2009.  
See: 40 N.J.R. 6408(a), 41 N.J.R. 1507(a).  
Section was "Scope". Rewrote the section.

**16:40-1.2 Scope**

These rules apply to charitable organizations as that term is defined in N.J.S.A. 45:17A-20.

New Rule, R.2009 d.97, effective April 6, 2009.  
See: 40 N.J.R. 6408(a), 41 N.J.R. 1507(a).

**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.

Amended by R.2009 d.97, effective April 6, 2009.  
See: 40 N.J.R. 6408(a), 41 N.J.R. 1507(a).

In paragraph 2 of definitions “Charitable organization” and “Charitable purpose”, substituted “charitable” for “eleemosynary”; and in paragraph 2 of definition “Charitable organization”, inserted a comma after the second occurrence of “appeal”.

## SUBCHAPTER 3. GENERAL PROVISIONS

### 16:40-3.1 General provisions and restrictions

(a) No person shall solicit charitable contributions on a State highway or intersection thereof without approval from the Department. In order to obtain the approval of the De-

partment, the charitable organization shall have prior approval from the respective municipal governing body via ordinance. Such municipality shall not authorize charitable solicitations on any county highway or intersection thereof without the approval of the county board of chosen freeholders.

(b) To obtain approval from the Department, the charitable organization shall obtain a charitable solicitation permit from the appropriate regional maintenance 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 arose out of 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.

Amended by R.2009 d.97, effective April 6, 2009.  
See: 40 N.J.R. 6408(a), 41 N.J.R. 1507(a).

In (a), deleted “, via the issuance of a ‘Charitable Solicitation Permit.’” at the end of the first sentence, deleted the former second sentence, and inserted the last two sentences; added new (b); recodified

former (b) through (d) as new (c) through (e); added new (f); recodified former (e) and (f) as new (g) and (h); in (h), added “or any traffic control device, either portable or permanent;” ; recodified former (g) as new (i); in (i), inserted “that arose out of the solicitation activity”; recodified former (h) through (k) as (j) through (m); and in (m), deleted “resulting from a motor vehicle accident” preceding “arising out of” and substituted “the solicitation activity conducted by charitable organizations in highway right of way” for “or in the course of solicitations for the purpose of soliciting contributions, conducted by charitable organization, as defined at N.J.S.A. 45:17A-20, pursuant to N.J.S.A. 39:4-60”.

Administrative change.  
See: 43 N.J.R. 318(a).

**16:40-4.2 Application requirements**

(a) An applicant shall complete the application form MT-120A and submit it to the appropriate regional maintenance office.

(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 45 days of their submission in complete form. The time for the Department review may be extended with the written consent of the applicant.

(d) To be complete, the application form shall be accompanied by 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. The permit must be signed by this person. The ordinance shall state that the municipality has consulted with its police chief, person, or entity responsible for its police services and that this entity will be responsible for supervising the solicitation and enforcing the terms of the charitable solicitation permit.

(e) 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.

(f) 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.

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

Amended by R.2009 d.97, effective April 6, 2009.  
See: 40 N.J.R. 6408(a), 41 N.J.R. 1507(a).

In (a), deleted “proper” preceding “application”, inserted “MT-120A”, and substituted “regional maintenance office” for “Regional Maintenance Office”; in (b), substituted “review” for “processing”, deleted “, unless and” following “begin”, substituted “application fee” for “fee for the application”, and deleted “(see N.J.A.C. 16:40-10.1) and the application is complete” following “submitted”; in (c), deleted “, however, the Department will make its best efforts to process Charitable Solicitation Permits in less time” following “form”; in (d), substituted “charitable solicitation permit” for “Charitable Solicitation Permit”; and in (f), substituted “apply” for “are met”.

**SUBCHAPTER 4. APPLICATIONS**

**16:40-4.1 Source of permits**

(a) Applicants for a charitable solicitation permit shall complete a Form MT-120A and submit it to the appropriate regional maintenance office. The form is available from the Department’s regional maintenance offices or on the Department’s website at: <http://www.state.nj.us/transportation/eng/forms/>.

(b) Contact information for the Regional Maintenance Offices is as follows:

1. Northern Region

New Jersey Department of Transportation  
200 Stierli Court  
Mt. Arlington, New Jersey 07856  
(973) 601-6625  
Fax: (973) 601-6628

2. Central Region

New Jersey Department of Transportation  
100 Daniels Way  
Freehold, New Jersey 07728  
(732) 625-4330

3. Southern Region

New Jersey Department of Transportation  
Route 70 West  
Cherry Hill, New Jersey 08002  
(856) 486-6688

(c) Regional boundaries are shown on the map appended hereto and incorporated by reference as the chapter Appendix.

Administrative change.  
See: 31 N.J.R. 547(c).  
Amended by R.2003 d.435, effective November 3, 2003.  
See: 35 N.J.R. 2788(a), 35 N.J.R. 5126(a).

In (a), substituted “and/or permit application shall be sent” for “shall be referred” following “permits” in the introductory paragraph and amended address and phone number in liii.

Amended by R.2009 d.97, effective April 6, 2009.  
See: 40 N.J.R. 6408(a), 41 N.J.R. 1507(a).

Rewrote the section.  
Administrative change.  
See: 42 N.J.R. 722(a).

## SUBCHAPTER 5. SAFETY CRITERIA

**16:40-5.1 Safety criteria**

(a) All solicitors shall wear safety vests labeled as meeting the ANSI 107-1999 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.

Amended by R.2009 d.97, effective April 6, 2009.  
See: 40 N.J.R. 6408(a), 41 N.J.R. 1507(a).

In (a), substituted "labeled as meeting the ANSI 107-1999 standard performance, incorporated herein by reference as amended and supplemented, for Class 2 risk exposure" for "that are in accordance with NJDOT standards", and inserted the last sentence.

## 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), 2003 edition with revisions 1 and 2, as amended and supplemented, incorporated herein by reference. 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.

Amended by R.2003 d.435, effective November 3, 2003.  
See: 35 N.J.R. 2788(a), 35 N.J.R. 5126(a).

In (c), substituted "Millennium Edition" for "1988" preceding "or superseding issue".

Amended by R.2009 d.97, effective April 6, 2009.

See: 40 N.J.R. 6408(a), 41 N.J.R. 1507(a).

In (c), inserted the opening quotation mark preceding "Manual", substituted "for Streets and Highways" (MUTCD), 2003 edition with revisions 1 and 2, as amended and supplemented, incorporated herein by reference" for "Millennium Edition or superseding issue, available through the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402" and inserted the last sentence.

## 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.

Amended by R.2009 d.97, effective April 6, 2009.

See: 40 N.J.R. 6408(a), 41 N.J.R. 1507(a).

Substituted "charitable solicitation permit" for "Charitable Solicitation Permit".

## SUBCHAPTER 8. UNAPPROVED APPLICATIONS

**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.

Amended by R.2009 d.97, effective April 6, 2009.

See: 40 N.J.R. 6408(a), 41 N.J.R. 1507(a).

In the introductory paragraph of (a), substituted a colon for a period at the end; and in (b), substituted "notice of denial will" for "denial letter shall" in the first sentence, and deleted the last sentence.

## SUBCHAPTER 9. APPEALS

**16:40-9.1 Appeal process**

An applicant who has been denied a charitable solicitation permit may appeal such denial to the Regional Director for Regional Operations. The applicant shall submit a written request for reconsideration, within 30 days of denial of a permit. The Regional Director for Regional Operations may grant, upon request, an informal meeting with representatives of the charitable organization. The Regional 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.

Amended by R.2009 d.97, effective April 6, 2009.  
See: 40 N.J.R. 6408(a), 41 N.J.R. 1507(a).

Substituted "charitable solicitation permit" for "Charitable Solicitation Permit" in the first sentence, substituted "grant, upon request, an informal meeting" for "provide the opportunity to meet" in the second sentence, and substituted "Regional" for "Executive" preceding "Director" three times.

## SUBCHAPTER 10. FEES

**16:40-10.1 Fee schedule**

(a) The fee schedule is as follows:

1. Application fee, \$25.00;
2. Permit fee, \$10.00 per day for each day, or part thereof, of proposed solicitation.

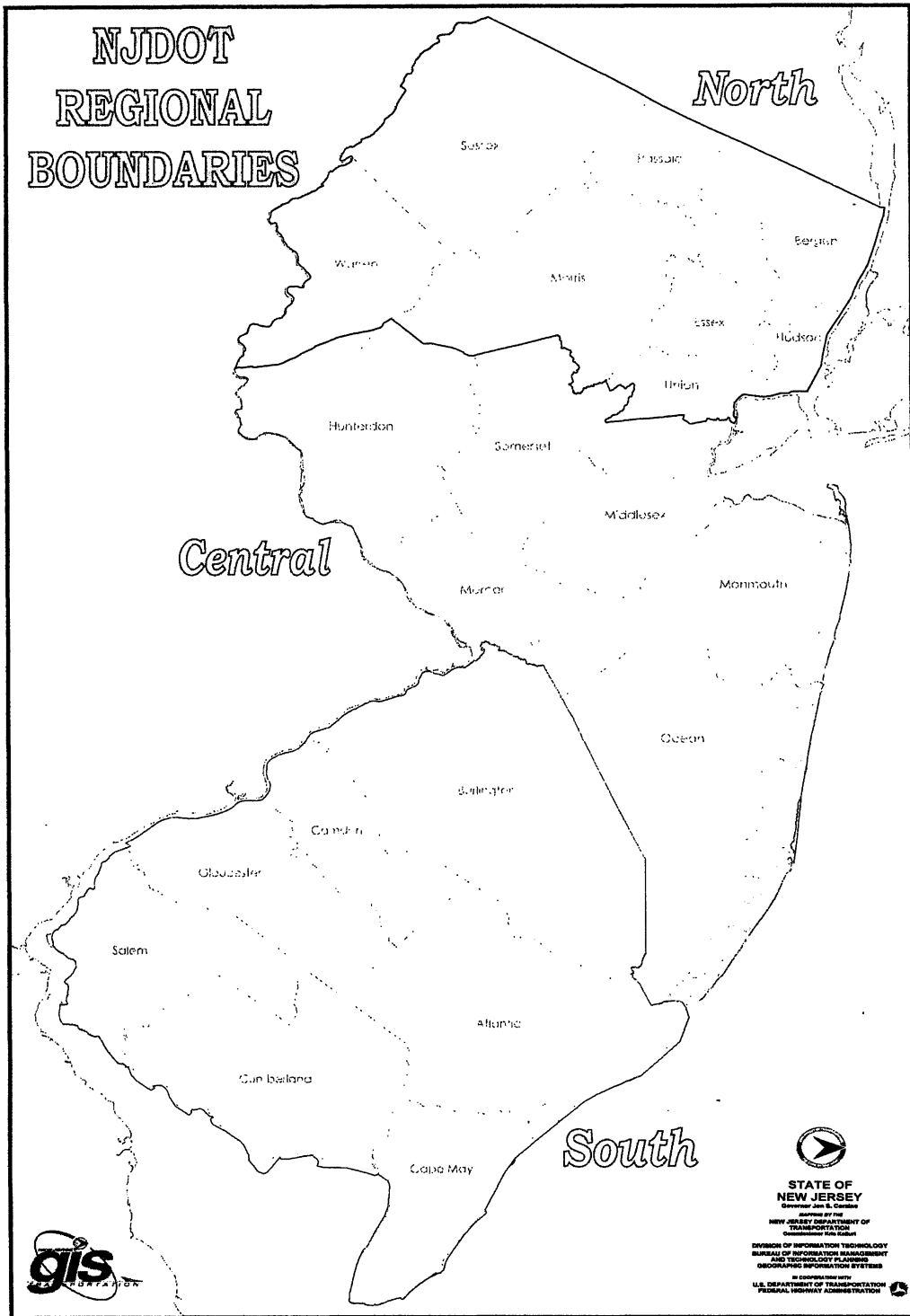
(b) Fees are nonrefundable.

## SUBCHAPTER 11. VIOLATIONS

**16:40-11.1 Penalty for violations**

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

APPENDIX



Repeal and New Rule, R.2009 d.97, effective April 6, 2009.  
See: 40 N.J.R. 6408(a), 41 N.J.R. 1507(a).