

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.2003 d.435, effective October 9, 2003.
See: 35 N.J.R. 2788(a), 35 N.J.R. 5126(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 40, Charitable Solicitation on Roadways, expires on April 7, 2009. See: 40 N.J.R. 6408(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Chapter 40, Snow and Ice Control, was repealed by R.1990 d.158, effective March 5, 1990.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: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. SCOPE

16:40-1.1 Scope

(a) Charitable organizations as defined in N.J.S.A. 45:17A-20 shall be permitted to solicit contributions in the right-of-way of a highway, other than interstate highways, freeways, toll roads maintained by the New Jersey Turnpike Authority, the South Jersey Transportation Authority, or the New Jersey Highway Authority, and other than 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.

(b) To solicit contributions in the right-of-way, the charitable organization shall have approval in advance 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. Such municipality shall not authorize charitable solicitations on any State highway or intersection thereof without the approval of the Department.

(c) To obtain approval from the Department, the charitable organization shall obtain a "Charitable Solicitation Permit" from the Regional Maintenance Engineer, subject to the terms and conditions specified herein.

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 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.

“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 eleemosynary 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) No person shall solicit charitable contributions on a State highway or intersection thereof without approval from the Department, via the issuance of a “Charitable Solicitation

Permit.” Such permit 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.

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

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

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

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

(f) 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 shall be prohibited.

(g) The charitable organization shall be responsible for cleaning up any debris from the right-of-way.

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

(i) 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.

(j) 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.

(k) The Department shall not be liable in any civil action for damages for property damage or personal injury resulting from a motor vehicle accident arising out of 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.

SUBCHAPTER 4. APPLICATIONS

16:40-4.1 Source of permits

(a) Requests for permits and/or permit applications shall be sent to the Regional Maintenance Engineer of the region in which the activity is to take place:

1. Regional Offices:
 - i. Northern Region

New Jersey Department of Transportation
 200 Stierli Court
 Mt. Arlington, New Jersey 07856
 (973) 770-5140

ii. Central Region

New Jersey Department of Transportation
 100 Daniels Way
 Freehold, New Jersey 07728
 (732) 308-4106

iii. Southern Region

New Jersey Department of Transportation
 Route 70 West
 Cherry Hill, New Jersey 08002
 (856) 486-6685

2. 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 1iii.

16:40-4.2 Application requirements

(a) An applicant shall complete the proper application form and submit it to the appropriate Regional Maintenance Office.

(b) An application shall not be considered to have been submitted, and processing of a permit application shall not begin, unless and until the proper fee for the application has been submitted (see N.J.A.C. 16:40-10.1) and the application is complete.

(c) All applications shall be reviewed and either approved or denied within 45 days of their submission in complete form, however, the Department will make its best efforts to process Charitable Solicitation Permits in less time. 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 are met.

(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.

SUBCHAPTER 5. SAFETY CRITERIA

16:40-5.1 Safety criteria

(a) All solicitors shall wear safety vests that are in accordance with NJDOT standards.

(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, Millennium Edition or superseding issue, available through the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(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".

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. 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 denial letter shall set forth the reasons for the denial. The Department shall not unreasonably withhold approval.

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 Executive Director for Regional Operations. The applicant shall submit a written request for reconsideration, within 30 days of denial of a permit. The Executive Director for Regional Operations may provide the opportunity to meet with representatives of the charitable organization. The Executive 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;
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

DIAGRAM 1

