

**RESOLUTION 13-2011**

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF CARROLLTON,  
STATE OF GEORGIA, FOR THE PURPOSE OF ADOPTING A SOLICITING ORDINANCE;  
PROVIDING FOR PERMITS FOR STREET SOLICITATION; CONTROLLING LOCATION  
AND REQUIREMENTS FOR SOLICITORS; AND FOR PROVIDING FOR ENFORCEMENT  
AND PENALTIES

**WHEREAS**, under O.C.G.A. §§40-6-97 and 40-6-97.1, and under the general powers vested by law, the City of Carrollton, Georgia has the authority to regulate solicitation on roadsides and elsewhere in the City of Carrollton, Georgia; and

**WHEREAS**, unlicensed solicitation by unregistered solicitors is a health and safety hazard to the solicitors, drivers and other pedestrians, and also exposes the citizens of the City of Carrollton, Georgia to fraudulent solicitors, and harms legitimate charities; and

**WHEREAS**, the Mayor and City Council of Carrollton, Georgia deem it to be in the best interests of the citizens of the City of Carrollton that a Solicitation Ordinance be enacted in accordance with law;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of Carrollton, Georgia do hereby amend Chapter 22, Article IV (“Peddlers, Solicitors and Canvassers”), Division 2, Sections 22-121 through 22-130, as follows

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**DIVISION 2: SOLICITATION**

**Sec. 22-121 - Purpose**

The purpose of this Ordinance is to protect, maintain and enhance the public health, safety, and general welfare by regulating road-side solicitation and other charitable events where contributions are sought. Solicitors are put at risk by entering roadways and parking lots which put drivers and other pedestrians at risk. The citizens of the City of Carrollton, Georgia are subject to unregulated solicitation by sometimes questionable organizations, or solicitations in a hazardous manner or location. It is the purpose of this Ordinance to regulate solicitation on streets and highways and other public areas of the City of Carrollton, Georgia, to protect the public health, safety and welfare. Neither is it the intent of this Ordinance to infringe free speech rights or require permitting for persons going door-to-door for political campaigns, religious proselytizing, or other free speech reasons.

**Section 22-122 - Definitions**

A. Definitions. The following words, as used in this Ordinance, shall have the following meanings:

1. *Applicant* means the charitable organization seeking a permit.
2. *Charitable Organization* means an organization which is qualified under Section 501(c) of the Internal Revenue Code of 1986, as amended; Georgia registered non-profit corporations; churches; and public and private schools. Charitable organizations must also either be registered with the Georgia Secretary of State pursuant to O.C.G.A. § 43-17-5, or be exempt from such registration pursuant to O.C.G.A. § 43-17-9.
3. *City* means the City of Carrollton, Georgia.
4. *Event* means any charitable solicitation within the City of Carrollton, Georgia.
5. *Event Permit* means a permit issued pursuant to this Ordinance to conduct an Event.
6. *Organizer* means the person responsible for organizing the event and whose name shall be on the application.
7. *Permit* means an Event Permit.
8. *Police Chief* means the Chief of Police of the City of Carrollton, Georgia or his or her designee.
9. *Solicitor* means any person who engages in solicitation.
10. *Solicitation* or *Charitable Solicitation* means the act of asking for employment, business, or contributions on a public road, street, highway, right-of-way, sidewalk or other public property from the occupant of any vehicle or any pedestrian.
11. *Travel Lanes* means the marked lanes on a road or highway, or the lanes of travel for vehicles, including turn lanes, access lanes, and acceleration or deceleration lanes.

### **Section 22-123 - Restrictions**

- A. Solicitation Restricted. Pursuant to O.C.G.A. § 40-6-97(b), the City prohibits any person from standing or entering on a highway, public street, or public right-of-way of the City for the purposes of soliciting employment, business solicitations, and/or contributions from the occupant of any vehicle or any pedestrian. Solicitation shall only be allowed by Charitable Organizations with an Event Permit, under the terms of this Ordinance. It shall be a violation of this Ordinance to engage in solicitation without an Event Permit, or otherwise not in accordance with the terms of this Ordinance and the Event Permit.
- B. Event Permit Required. No Charitable Organization is allowed to engage in solicitation

on any highway, public street, or public right-of-way in the City without first obtaining an Event Permit. Persons, businesses, and organizations that are not Charitable Organizations as defined in this Ordinance are not eligible to receive a permit for solicitation. An Event Permit shall be obtained from the Police Chief. An Event Permit is not required for any event sponsored or conducted by the City or its departments and agencies.

## **Sec. 22-124 - Permit Requirements**

- A. Event Permit Application. All requests for an Event Permit must be provided to the Police Chief at least five (5) business days but no more than sixty (60) calendar days prior to the date of the requested event. The Police Chief shall issue a decision within three (3) business days of the application being filed. The Police Chief, for good cause shown, shall have the authority to consider any application under this section which is filed less than five (5) business days before the date such event is proposed to be conducted, provided the Police Chief shall have adequate time to conduct the investigation. An application and Event Permit shall be required for each event, provided however only one (1) application and Event Permit shall be required for each proposed event.
- B. Required Information for Application. All applications for Event Permits must include at a minimum the following information, and shall be signed by the Organizer(s):
1. Name and address of Charitable Organization, including headquarters address and address of the office within Carroll County, Georgia, if any, or the address of the closest office if there is no Carroll County, Georgia office;
  2. Type of organization and certification, if listed below. The organization must provide proof that it falls within one (1) of the below categories in order to apply for a Event Permit:
    - a. Organization qualified under Section 501(c) of the Internal Revenue Code of 1986 (certification from IRS must be provided with the application for Event Permit);
    - b. Non-profit corporation registered in Georgia (certification from the Georgia Secretary of State must be provided with the application for Event Permit);
    - c. Church; or
    - d. Public or private school.
  3. Name of Organizer(s), and address, height, weight, age, sex, race, and social security number of each organizer for background check purposes;

4. Photocopy of unexpired driver's license or other official photo identification of each Organizer;
  5. Proposed solicitation activity, and purpose for solicitation activity (i.e., use of funds);
  6. Specific location(s) for event, including specific intersections, and number of solicitors at each such location;
  7. Date(s) and time(s) of event(s);
  8. Names of all participants proposed to be solicitors, and their ages;
  9. If any solicitors are under the age of 18, the names and addresses of adult supervisors; one adult supervisor per four solicitors under the age of 18 is required;
  10. If the event is to be held on behalf of any person or organization other than the applicant, a communication in written form from that person or organization authorizing the applicant to apply for the Event Permit;
  11. The application shall contain a statement that the submission of the application shall be considered to be consent by the organizer(s), the charitable organization, and the officers of the charitable organization for a background check to be run by the Police Chief at his or her discretion on any person named on the application, and a statement that all information contained thereon is true and correct; and
  12. Any additional information the Police Chief may find reasonably necessary for a fair determination as to whether the proposed event will endanger public health, safety, or welfare.
- C. Organizer. A minimum of one organizer is required for an event. No more than five persons shall be designated organizers for any event. The organizer(s) are required to be at the event in person at all times. There shall be one organizer for each location where solicitation is occurring. All events shall be conducted under the supervision of a person or persons making application for same (the organizer) and shall be conducted in a peaceable and orderly manner in compliance with the laws and ordinances applicable thereto.
- D. Permit Onsite. The Event Permit bearing the signature of the Police Chief is to be kept on-site in the possession of an organizer at all times that the event is underway. If multiple locations are involved, an Event Permit copy shall be kept at each location by each organizer. Event Permits shall be displayed at the request of any citizen or law enforcement personnel.
- E. Safety Vests. Upon issuance of the Event Permit, the City shall provide City-owned

safety vests that must be worn by each person participating in the event. At his or her discretion, the Police Chief may require a refundable deposit to ensure return of the City-owned safety vests. The amount of any such deposit, should the Police Chief deem it necessary, is in the sole discretion of the Police Chief.

## **Sec. 22-125 - Investigation and Issuance**

- A. Investigation. The Police Chief shall review the application for completeness and compliance with the terms of this Ordinance. The Police Chief shall check if the charitable organization is registered with the Georgia Secretary of State, or is exempt under O.C.G.A. § 43-17-9. The Police Chief may investigate, at his or her discretion, whether there are any records of complaints against the applicant or organizers in the records of the Police Department or the GCIC/NCIC crime database system. The Police Chief may, at his or her discretion, conduct a background check of the organizers or corporate officers, or any other person named on the application. The Police Chief may, at his or her discretion, make any other inquiries he or she deems necessary for the investigation of the applicant or the organizers.
- B. Decision. The Police Chief may grant the application for Event Permit, deny the application for Event Permit, or grant a restricted Event Permit. The Police Chief shall issue an Event Permit as provided in this Ordinance from a consideration of the application and from such information as may otherwise be obtained, unless he or she finds that any or all of the following apply:
1. The conduct of the event will substantially interrupt the safe and orderly movement of traffic;
  2. The conduct of the event will substantially interrupt the safe and orderly movement of fire-fighting equipment en route to a fire, or other emergency services;
  3. The applicant or any organizers or participants have any criminal complaints pending against them, or have a criminal record involving crimes of theft, fraud, or other moral turpitude;
  4. The applicant is not a qualifying Charitable Organization or is otherwise not a legitimate organization;
  5. The Police Chief has reason to believe the event is a fraud or sham;
  6. If a Charitable Organization required to be registered with the Georgia Secretary of State, under O.C.G.A. § 43-17-5, it is not so registered;
  7. The conduct of the event is contrary to the public's health, safety, or general welfare; or

8. The application was not complete, or the application or Event Permit requested is not fully in compliance with the requirements of this Ordinance.

The Police Chief shall indicate on the application review form all reasons for rejection of the application.

- C. Restrictions. The Police Chief shall indicate on the Event Permit the permitted activities, locations, and times of the event. The Police Chief may approve a smaller or shorter event than requested, may reduce the number of solicitors, may approve a different location, or may generally make any other adjustments he or she believes necessary to the application to serve the public health, safety and welfare.
- D. Non-Content Based Review. The content of the message of any applicant, their beliefs, the identification of the participants, or any other matter which does not directly impact on the public health, safety, and welfare, shall not be relevant to the determination of whether to grant or deny an Event Permit.

#### **Sec. 22-126 - Appeals**

- A. Appeals. Any person aggrieved by the denial or restriction of an Event Permit shall have the right to appeal the denial or restriction to the City Manager of Carrollton, Georgia. A written appeal shall be sent via certified mail or statutory overnight delivery to City of Carrollton, Attn: City Manager, 315 Bradley Street, Carrollton, Georgia 30117.
- B. Procedure. A meeting shall be conducted at Carrollton City Hall at a time mutually convenient to the applicant, Police Chief, and the City Manager. The Police Chief shall appear and present his or her case and evidence as to why the application was denied. The applicant shall have the opportunity to present its case and evidence in support of the application.
- C. Standard of Review. The City Manager, keeping in mind the purpose of this Ordinance, the substantive provisions, and giving deference to the judgment of the Police Chief, shall make a determination as to whether the denial or restriction was just and in the interests of the public health, safety and welfare, or whether the Event Permit should be issued or modified. If the latter, the City Manager of Carrollton, Georgia shall issue an Event Permit providing guidance as to the location, time, persons, and other criteria of this Ordinance.

#### **Sec. 22-127 - Solicitation Regulations; Locations and Times**

- A. Prohibited Times. No solicitation shall be allowed during the following times:
  1. At any time, as set by the National Weather Service, after sunset or before sunrise.

- B. Locations. No solicitation shall occur on private property without written permission of the property owner. Upon request from law enforcement personnel, a solicitor must provide such written permission to solicit on the private property where solicitation is occurring. As to solicitors holding a valid Event Permit, they are required to stay on median strips, sidewalks, or otherwise out of the travel lanes. Solicitation from travel lanes is not permitted. When all vehicles are stopped at an intersection, solicitors may approach cars to receive donations if the occupants have indicated they seek to make a donation. Walking along a line of cars shall ONLY be permitted if the solicitor stays out of the travel lanes. No more than one Charitable Organization may solicit at the same intersection at the same time.
- C. Duration. An event may last no longer than two days. A separate Event Permit shall be required for each additional event (i.e., six (6) days would require three (3) Event Permits).
- D. Solicitors under the age of 18. All Charitable Organizations which are permitted to solicit funds must have one (1) adult supervisor over the age of twenty-one for every four (4) persons under the age of eighteen.
- E. Peddling. Peddling shall not be allowed under an Event Permit. A separate peddler's license is required. See Chapter 22, Article IV ("Peddlers, Solicitors and Canvassers"), Division 1, Sections 22-106 through 22-116 for more information.

#### **Sec. 22-128 - Violations, Enforcement**

- A. Persons soliciting without an Event Permit or in violation of the Event Permit shall first be issued a written warning concerning his or her violation of this Ordinance.
- B. Regarding subsequent violations, persons shall be cited with a citation for prosecution in the Municipal Court of Carrollton, Georgia, in accordance with the requirements of law for such citations. Any law enforcement officer shall be authorized to issue such citations.
- C. Any person, organization, business, or entity in violation of the provisions of this Ordinance is subject to a fine of up to one thousand dollars (\$1,000.00) per day per violation per individual participant. The minimum fine shall be \$100.00 per day per violation per individual participant.
- C. Any violation of this Ordinance shall immediately revoke the Event Permit. The Police Chief shall also have the discretion to revoke the Event Permit upon charge of violation being made, or upon awareness of illegal or unauthorized activity, if Event Permit revocation is required in the best interests of public health, safety and welfare.
- D. Any person, organization, business, or entity found guilty of violating this Ordinance may not be issued an Event Permit for a two-year period from the date of the violation. Upon a second time being found guilty of violating this Ordinance, the person, organization,

business, or entity shall be banned from further solicitation in the City.

- F. The City Attorney, or his or her designee, shall be authorized to seek injunctive relief and other relief in Superior Court, if necessary, to effectuate the intent of this Ordinance. The City shall be entitled to seek civil fines in the amounts specified above, and shall be entitled to its attorneys' fees for any successful action.

**Sec. 22-129 - Severability**

If any paragraph, subparagraph, sentence, clause, phrase or any portion of this Ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, or if any provision of any part of this Ordinance as applied to any particular situation or set of circumstances be declared invalid, or unconstitutional, such invalidity shall not be construed to affect the remaining portions of this Ordinance not so held to be invalid, or the application of this Ordinance or other circumstances not so held to be invalid. It is hereby declared to be the intent of the Mayor and City Council of the City to provide for separable and devisable parts and they hereby readopt any and all parts hereof as may not be held invalid for any reason.

**Sec. 22-130 - Repealer**

This Ordinance repeals any prior ordinance or resolution in conflict herewith, except to the extent that said ordinance or resolution is more restrictive than this Ordinance, in which case that ordinance or resolution shall control.

**SO ADOPTED** this \_\_\_\_ day of December, 2011, to be effective immediately, the public health, safety, and general welfare demanding.

MAYOR AND CITY COUNCIL  
OF CARROLLTON, GEORGIA

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Mayor, City of Carrollton, Georgia

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Clerk, City of Carrollton, Georgia