

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

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5-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable purpose within the municipality without a permit from the City Recorder authorizing such solicitation. Provided, however, that this section shall not apply to any charitable organization operated exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of such organization.

5-302. Definitions. Whenever used in this ordinance unless a different meaning clearly applies in context:

- (a) Board of Commissioners means the City Commissioners of the City of Paris, Tennessee;
- (b) Charitable means and includes the words patriotic, philanthropic, social service, welfare, benevolent, educational, civic, humane, eleemosynary, or fraternal, either actual or purported;
- (c) Charitable organization means a group which is or holds itself out to be a benevolent, educational, philanthropic, humane, patriotic, eleemosynary, or fraternal organization or any person who solicits or obtains contributions solicited from the public for charitable purposes;
- (d) City Recorder means the City Recorder of the City of Paris, Tennessee;
- (e) Contribution means and includes the words, alms, food, clothing, money, subscriptions, property, or donations under the guise of loaning money or property or any promise or grant of any money or property of any kind or value;
- (f) Person means any individual, firm, partnership, corporation, company, association, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof;
- (g) Professional solicitor means any person who, for financial or other consideration, solicits contributions for , or on behalf of, a charitable organization, whether such solicitation is preformed personally or through his agents, servants, or employees or through such agents, servants, or employees specially employed by or for a charitable organization, who are engaged in the solicitation of contributions under the direction of such a person, or a person who plans, conducts,

manages, carries on or advises a charitable organization in connection with the solicitation of contributions;

(h) Solicit and solicitation means the request, directly or indirectly, by face to face, personal contact, for money, credit, profit, financial assistance, or other thing of value upon the plea or representation that such money, credit, profit, financial assistance or other thing of value will be used for a charitable purpose as those purposes are defined in this ordinance. For the purposes of this ordinance, solicit and solicitation shall also mean and include face to face, personal contact, for the purpose of the sale of, or for the attempt to sell, any advertisement, advertising space, book, card, chance, coupon, device, magazine, membership, merchandise, subscription, ticket or other thing in connection with which any appeal is made for any charitable purposes, where the name of a charitable organization is used or referred to in any such appeal as an inducement or reason for making any such sale, or when or where in connection with any such sale, any statement is made that the whole or any part of the proceeds from any such sale will be donated to any charitable purpose and be deemed to include any appeal, assembly, athletic or sports event, bazaar, benefit, campaign, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale or gathering, which the public is requested to patronize or to which the public is requested to make contribution for any charitable purpose connected therewith. A solicitation as defined herein shall be deemed completed when made, whether or not the person making the same receives any contribution or makes any sale referred to in this section.

5-303. Application for charitable solicitations permit. An application for a permit to solicit as provided in Section 5-301 of this article, shall be made to the City Recorder through a form provided by the City of Paris. Such application shall be sworn to and filed with the City Recorder at least fourteen (14) days prior to the time at which the permit applied for shall become effective; provided, however, that the City Recorder may, for good cause shown, allow the filing of an application less than fourteen (14) days prior to the effective date of the permit applied for. The application herein required shall contain the following information, or in lieu thereof, a detailed statement of the reason or reasons why such information cannot be furnished.

(a) The name, address or headquarters of the person applying for the permit;

(b) If the applicant is not an individual, the names and addresses of the applicant's principal officers and managers and a copy of the resolution, if any, authorizing such solicitation, certified to be a true and correct copy of the original by the officer having charge of the applicant's records;

(c) The purposes for which such solicitation is to be made, the total amount of funds proposed to be raised thereby, and the use or disposition to be made of any receipts therefrom;

(d) The names, address, birthdate, and Social Security number of the person or persons who will be in direct charge of conducting the solicitation and names, addresses, birthdates and Social Security numbers of all solicitors connected or to be connected with the proposed solicitation;

(e) An outline of the method or methods to be used in conducting the solicitations;

(f) The time when such solicitations shall be made, giving the preferred dates for the beginning and ending of such solicitations.

5-304. Investigation by City Recorder. The City Recorder shall examine all applications filed under Section 5-303 of this article, and shall make, or cause to be made, such further investigation of the application and the applicant as the City Recorder shall deem necessary in order for it to perform its duties under this article.

5-305. Standards for City Recorder action in granting or denying applications for charitable solicitation permits. The City Recorder shall issue the permit provided in Section 5-301 hereof within two (2) days whenever it shall find the following facts to exist:

(a) That all of the statements made in the application are true;

(b) That the applicant has a good character and reputation for

honesty and integrity, or if the applicant is not an individual person, that every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity;

(c) That the control and supervision of the solicitation will be under responsible and reliable persons;

(d) That the applicant or any solicitor of the applicant, has not engaged in any fraudulent transaction or enterprise;

(e) That the solicitation will not be a fraud on the public;

(f) That the solicitation is prompted solely by a desire to finance the charitable cause described in the application and will not be conducted primarily for private profit;

(g) That the applicant or any proposed solicitor of the applicant, has not violated the provisions of Sections 5-308, 5-310, and 5-311 of this ordinance or the provisions of any previous solicitation ordinance of the City of Paris.

If the City Recorder, in this investigation as required by 5-304, finds the applicant not to be in conformance with the standards as set out in this section, a permit shall not be issued. The City Recorder shall within two (2) days of the application for a permit as specified in 5-303, notify the applicant, in writing, by registered mail that the application for a permit has been denied, and shall specify the grounds which form the basis for such denial, and shall inform the applicant of which form the basis for such denial, and shall inform the applicant of the appeals procedure available under 5-309 of this ordinance.

5-306. Fee for charitable solicitation permits. At the time an application for a permit is made, there shall be no fee paid to the City Recorder.

5-307. Charitable solicitations permit – Form of – Granting of is not endorsement by City – Time limit on. Permits issued under this ordinance shall bear the name and address of the person or organization by whom the solicitation is to be made, the number of the permit, the date issued, the dates within which the permit holder may solicit and a statement that the permit does not constitute an endorsement by the City of Paris or by any of its departments, officers or employees of the purpose or of the person conducting the solicitation. All permits shall be signed by the City Recorder. Permits shall be granted for a period of one (1) year.

Any permit issued hereunder shall be non-transferable and said fact of non-transferability shall be clearly indicated on the permit.

5-308. Solicitation without permit prohibited. No agent or solicitor shall solicit contributions for any charitable purpose or any person in the City of Paris unless such person or organization has been granted a permit under the provisions of this article. It is understood that the individual agents or solicitors are not required to have original permits, but that the only permit required is the original permit issued to the person for whom the contributions are being solicited. Provided, however, that each agent or solicitor shall have in his possession a facsimile of the original permit issued to the organization for which he solicits, which facsimile shall be provided by the charitable organization or individual.

5-309. Hearing after denial of application for a permit; Exception; Decisions. Within two (2) days after receiving notification by registered mail that his application for a permit to solicit under this article has been denied under 5-305, any applicant may file a written request for a public hearing on the application before the Board of Commissioners, together with written exceptions to the findings of fact upon which the City Recorder based its denial of the application. Upon the filing of such a request, the Board of Commissioners shall fix a time and place for the hearing and shall notify the applicant thereof. The hearing shall be held within three (3) days after the request is filed. At the hearing the applicant may present evidence in support of his application and exceptions. Within two (2) days after the conclusion of the hearing, the Board of Commissioners shall state the facts upon which its decision is based, and its ruling upon any exceptions filed to its original findings of fact upon the application. This report shall be filed in the City Recorder's office for public inspection and a copy shall be served by registered mail upon the applicant and all parties to the hearing.

5-310. Use of fictitious name or misstatement prohibited; Conduct required; Conduct prohibited. No person shall, directly or indirectly, solicit contributions for any purpose by misrepresentation of his name, occupation, financial condition, social condition or residence, and no person shall make or perpetrate any other misstatement, deception, or fraud in connection with any solicitation of any contribution for any purpose within the City of Paris, or in any application or report filed under this ordinance. Any such misstatement, deception or fraud, shall be grounds for revocation of any permit granted under this chapter by the procedures stated in 5-311.

The following conduct shall be required for all persons conducting solicitations in the City of Paris, Tennessee:

- (a) All person soliciting in the City of Paris shall be required to wear identification badges on their outermost garments bearing the name of the organization or individual for which the solicitation is being made, and the name of the solicitor;
- (b) Each solicitor shall orally identify the particular organization or individual for whom the solicitation is being carried out whenever any person or group of persons is required to contribute to the purpose for which the solicitation is being made.
- (c) Any person soliciting on the property of any commercial establishment must cease such solicitation and leave the premises immediately if requested to do so by the owner or manager of said commercial establishment.

The following conduct is prohibited by all persons conducting solicitations:

- (a) No person shall solicit contributions in the roadway, intersections or crosswalks of any public streets. All roadblocks on public streets shall be prohibited.
- (b) All door-to-door solicitations in residential areas shall be prohibited between the hours of 9:00 p.m. and 9:00 a.m.;
- (c) All solicitation in commercial areas shall be prohibited between the hours of 9:00 p.m. and 9:00 a.m., except that solicitation shall be allowed after 9:00 p.m. and before 9:00 a.m. on the premises of any commercial establishment open for business to the general public.

Any violations of the required conduct as outlined in the foregoing paragraphs shall be grounds for revocation of any permit granted under this chapter by the procedures stated in 5-311.

5-311. Revocation of permits, hearing, decision. Whenever it shall be shown, or whenever the Board of Commissioners has knowledge, that any person to whom a permit has been issued under this article, has violated any of the provisions of this article, or that any promoter, agent, professional solicitor, or solicitor of a permit holder, has misrepresented the purposes of the solicitation, the Board of Commissioners shall immediately suspend the permit and give the permit holder notice, by registered, special delivery mail, of a hearing to be held within two (2) days of such suspension to determine whether or not the permit should be revoked. The Board of Commissioners shall immediately notify the general public of the suspension of the permit in question and shall make public the date and the time of the hearing. This notice must contain a statement of the facts upon which the Board of Commissioners has acted in suspending the permit. At the hearing, the permit holder or any other interested person, may have the right to present evidence as to the facts upon which the Board of Commissioners based the suspension of the permit, and other facts which may aid the Board of Commissioners in determining whether this ordinance has been violated and whether the purpose of the solicitation has been misrepresented. If, after such hearing, the Board of Commissioners find that this article has not been violated and the purpose of the solicitation has not been misrepresented, it shall within two (2) days after the hearing, give the permit holder a written statement canceling the suspension of the permit and stating that no violation or misrepresentation was found to have been committed.

5-312. Judicial review of Board of Commissioners' action. The action of the Board of Commissioners in connection with the issuance of a permit of any kind, including the

revocation of a permit may be reviewed by the statutory writ of certiorari with the trial de novo as a substitute for an appeal, said writ of certiorari to be addressed to the Circuit or Chancery Court of Henry County, Tennessee.

Immediately upon the grant of the writ of certiorari, the Board of Commissioners shall cause to be made, certified and forwarded to said court, a complete transcript of the proceedings before the Board.

5-313. Penalties. Any violation of any section of this chapter upon conviction, shall be punished by a fine of not less nor more than fifty dollars (\$50.00). Each individual solicitor at each location shall constitute a separate violation. (Ord. #532, 03/06/79).