

Chapter 9.109

CHARITABLE SOLICITING

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9.109.010 Definitions.

The following words and phrases, whenever used in this chapter, shall be defined as follows:

(a) "Charity" means and has that definition set forth in California Business and Professions Code Section 17510.2(d) which defines "charity" as including "any person who, or any nonprofit community organization, fraternal, benevolent, educational, philanthropic, or service organization, or governmental employee organization which, solicits or obtains contributions solicited from the public for charitable purposes or holds any assets for charitable purposes." Whenever the term "charitable purposes" is utilized in this chapter, such term shall mean and include such purposes as will directly benefit or are purported to benefit any charity.

(b) "Solicit" or "solicitation" means:

(1) Any request, plea, demand, or invitation, or attempt thereof, to give money or property for any charitable purpose, without prior invitation, appointment or consent, made upon any private property in the city in which the solicitor has no possessory or ownership interest; or

(2) The sale of, offer to sell, or attempt to sell, for any charitable purpose and without prior invitation, appointment or consent, any advertisement, advertising space, book, card, chance, coupon device, magazine subscription, membership, merchandise, ticket of admission, or any other thing or service upon any private property in the city in which the solicitor has no possessory or ownership interest.

(c) "Solicitor" means any person who solicits.

(Ord. 520 § 2 (part), 1998).

9.109.020 Charitable solicitation permit required.

(a) No person shall solicit, or permit or cause any other person to solicit on said person's behalf, where it is represented that any proceeds of such solicitation are to be used for charitable purposes, or otherwise engage in any "solicitation for charitable purposes" or "sales solicitation for charitable purposes," as those terms are defined in California Business and Professions Code Section 17510.2, or any successor provision thereto, without first obtaining and being the holder of a valid charitable solicitation permit issued by the finance director. The fee for such permit shall be in such amount as may be set by resolution of the city council and which will compensate the city for the actual costs of the permit and identification card(s) required to be in the possession of each solicitor at all times while soliciting, and the cost of administering this chapter.

(b) The foregoing permit shall be required only of the person in charge of charitable solicitations on behalf of a charity, but no person shall solicit as agent, servant or representative of an unpermitted person required under the provisions of this section to have a charitable solicitation permit.

(c) Each person applying for a charitable solicitation permit or renewal of an existing permit shall file with the finance director a sworn statement setting forth the name of the charity on which behalf the charitable solicitation is to be made, together with the address and telephone number of the charity (and if an organization, the names and business addresses of its officers); the name of the person or persons who are to act as charitable solicitors; the total amount to be raised; the estimated total amount to be expended as compensation or reward for such charitable solicitation, or the percentage of the total amount intended to be raised or realized in the drive or campaign such estimated total of expenditures represents; and the purpose for which the money or property derived from such charitable solicitation is to be used. This statement shall be verified by declaration or affidavit of the person, or chief officer of the organization, for whom charitable solicitation is to be made, or if solicitation is to be for an unorganized class of persons, verification shall be made by the person in charge of such charitable solicitation.

To the extent not required above, each applicant shall also provide to the finance department as part of the sworn statement of the information required to be disclosed pursuant to California Business and Professions Code Section 17510.3, the name and address of each person who shall actually solicit for charitable purposes. This sworn statement shall be on such form as provided by the finance department and shall constitute the required application. Notwithstanding the

foregoing, provided none of the information given in connection with an application for an initial charitable solicitation permit has changed, an applicant for renewal shall only be required to verify the same under penalty of perjury and pay the required permit fee.

(d) Before issuing a charitable solicitation permit, the finance department may investigate the information provided in the application. Unless upon such inquiry or from such statement the finance department discovers any false material statement or representation, or that the applicant does not represent a bona fide charity, as defined herein and in California Business and Professions Code Section 17510.2, or that the solicitation activities proposed would violate any provision of California Business and Professions Code Section 17510 et seq., or any other law, the application shall be approved. Each complete application for a charitable solicitation permit shall be approved or denied within fourteen days of receipt or the application shall be deemed approved. The permit shall be valid for one year unless revoked or renewed as provided herein. If denied, the basis for denial shall be provided in writing within seven calendar days by mail to the applicant.

(e) In accordance with the requirements of California Business and Professions Code Section 17510.3, upon commencement of any charitable solicitation, each charitable solicitor shall exhibit to the prospective donor or purchaser a card entitled "Solicitation or Sale for Charitable Purposes Card," or alternatively, a solicitation brochure, which card or brochure shall truthfully contain the following information:

(1) The name and address of the charitable campaign, each organization, or fund on behalf of which all or any part of the money collected will be utilized for charitable purposes;

(2) If there is no organization or fund, the manner in which the money collected will be utilized for charitable purposes;

(3) The amount, stated as a percentage of the total gift or purchase price, that will be used for charitable purposes;

(4) If the charitable solicitor is a paid fundraiser and is paid a set fee rather than a percentage of the total amount raised, the card or brochure shall show the total cost that is estimated will be used for direct fundraising expenses;

(5) If the charitable solicitation is not a sales solicitation for charitable purposes, the card or brochure may state, in place of the amount of fundraising expenses, that an audited financial statement of these expenses may be obtained by contacting the organization at the address disclosed;

(6) The non-tax-exempt status of the organization or fund, if the organization or fund for which the money or funds are being solicited does not have a charitable tax exemption under both federal and state law;

(7) The percentage of the total gift, donation, or purchase price which may be deducted as a charitable contribution under both federal and state law. If no portion is so deductible, the card or brochure shall state that this contribution is not tax deductible;

(8) If the organization making the charitable solicitation represents any nongovernmental organization by any name which includes, but is not limited to, the term "officer," "peace officer," "police," "law enforcement," "reserve officer," "deputy," "California Highway Patrol," "Highway Patrol," or "deputy sheriff," or "firefighter," "firemen" or "fire department," which would reasonably be understood to imply that the organization is composed of law enforcement or fire department or firefighting personnel, the charitable solicitor shall give the total number of members in the organization and the number of members working or living within the county where the charitable solicitation is being made, and if the solicitation is for advertising, the statewide circulation of the publication in which the solicited ad will appear;

(9) If the organization making the charitable solicitation represents any nongovernmental organization by any name which includes, but is not limited to, the term "veteran," or "veterans," which would reasonably be understood to imply that the organization is composed of veterans, the charitable solicitor shall give the total number of members in the organization and the number of members working or living within the county where the solicitation is being made. This subsection (e)(9) does not apply to federally chartered or state incorporated veterans' organizations with two hundred or more dues paying members or to a thrift store operated or controlled by a federally chartered or state incorporated veterans organization. This subsection (e)(9) does not apply to any state incorporated community-based organization that provides direct services to veterans and their families and qualifies as a tax-exempt organization under Section 501(c)(3) or 501(c)(19) of the Internal Revenue Code and Section 23701(d) of the California Revenue and Taxation Code;

(f) When the charitable solicitation is not a sales solicitation for charitable purposes, any charitable solicitor who receives no compensation of any type from, or in connection with, a solicitation by any charitable organization, may comply with the provisions of subsection (e) of this section, by providing the name and address of the charitable organization on behalf of which all or any part of the money collected will be utilized for charitable purposes, by stating the charitable purpose for which the solicitation is made, and by stating to the person solicited that information about revenues and expenses of the organization, including its administration and fundraising costs, may be obtained by contacting the organization's office at the address disclosed. The organization shall provide this information to the person solicited within seven days after receipt of the request;

A charitable solicitor who receives no compensation of any type from, or in connection with, a solicitation or sales solicitation by a charitable organization which has qualified for a tax exemption under Section 501(c)(3) of the Internal Revenue Code, and who is eighteen years of age or younger shall be exempt from the provisions of subsection (e) of this section;

(g) Each charitable solicitor receiving money or property from any person as a result of any solicitation shall provide a written receipt to such person. This receipt shall indicate the amount of money or a description of property received, as well as the name, business or home address and telephone number of the charitable solicitor. The receipt shall also state

whether or not the money or property received constitutes a state or federal tax deduction;

(h) Each charitable solicitor, or the charity on whose behalf such solicitation is made, shall maintain full and complete written records of all money and property received as a result of the permitted charitable solicitation activities. Such records shall be available for review by the finance director, or designee, during normal business hours.

(Ord. 520 § 2 (part), 1998).

9.109.030 Identification.

(a) Each charitable solicitor who shall actually solicit shall be issued, and shall maintain in his possession at all times while soliciting, an original identification card and a driver's license, identification card, or other form of identification which bears the solicitor's name and photograph. The permit and identification card shall also state that issuance of such permit does not constitute an official endorsement by the city of the permittee or of the subject charity.

(b) Solicitors shall display the permit and identification card to, and allow the same to be examined by, any and all persons to whom any solicitation is to be made, prior to the time of the solicitation, and to any law enforcement officer upon request.

(c) A charitable solicitor soliciting on behalf of a charitable organization whose membership is comprised of at least fifteen members at least seventy-five percent La Mirada residents, shall be deemed to comply with this section provided each solicitor, while soliciting, is dressed in a recognizable uniform, or is bearing some other form of conspicuous identification, of such charitable organization.

(Ord. 520 § 2 (part), 1998).

9.109.040 Manner of solicitation.

(a) Solicitations shall not be made by any person under the age of sixteen unless accompanied by an adult.

(b) No person shall solicit between the hours of seven- thirty p.m. and nine a.m. of the following day.

(Ord. 520 § 2 (part), 1998).

9.109.050 Revocation.

Any charitable solicitation permit may be revoked or suspended by the finance director, pending a hearing, when there is probable cause to believe that any fraud or criminal act has been or is being committed by the permittee or agents thereof in connection with any permitted solicitation. In all other cases, where any permittee is found to have included any material misstatement or misrepresentation in the application, the permit may be revoked or suspended after a hearing on the matter.

When a hearing is to be conducted as provided herein, the finance director shall schedule such hearing to occur between seven and twenty-one calendar days, and shall provide notice by first class mail of such hearing to the permittee at the address set forth in the application on file. Said hearing shall be held before the city manager who shall bear the burden of proof and his or her decision shall be based upon written findings and shall be final.

(Ord. 520 § 2 (part), 1998).

9.109.060 Appeal.

Any person, business entity or organization aggrieved by a denial of a charitable solicitation permit may appeal to the city manager by filing a written request for an administrative hearing with the city clerk within thirty days after service of notice of the finance director's decision. The city manager shall bear the burden of proof and no fee shall be charged for such appeal. The decision of the city manager shall be final.

(Ord. 520 § 2 (part), 1998).

9.109.070 Penalty for violation of chapter.

(a) It is unlawful for any person, firm, partnership or corporation to violate any provision, or to fail to comply with any of the requirements of this chapter. Any person, firm, partnership or corporation violating any provision of this chapter, or failing to comply with any of its requirements shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment. Each such person, firm, partnership or corporation shall be deemed guilty of a separate offense for each and every day or any portion thereof during which any violation of this chapter is committed, continued, or permitted by such person, firm, partnership or corporation, and shall be deemed punishable therefor as provided in this chapter.

(b) Civil Remedies Available. The violation of any of the provisions of this chapter shall constitute a nuisance and may be abated by the city through civil process by means of a restraining order, preliminary or permanent injunction or in any other manner provided by law for the abatement of nuisances.

(Ord. 520 §§ 3, 4, 1998).