



AGENDA REPORT

Meeting Date: August 21, 2007
Item Number: F-6
To: Honorable Mayor & City Council
From: City Attorney
Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS REGARDING CHARITABLE SOLICITATIONS AND AMENDING THE BEVERLY HILLS MUNICIPAL CODE
Attachments: 1. Ordinance

RECOMMENDATION

Staff recommends adoption of this ordinance.

INTRODUCTION

This ordinance updates the current charitable solicitations ordinance and adds a new provision to allow the issuance of a permit for monetary drives that do not exceed 12 months and a provision to require hotels that lease or rent facilities for charitable solicitation purposes to provide renters a City-issued charitable solicitations packet that describes the City's permit requirements.

DISCUSSION

At the City Council meeting of August 7, 2007, the City Council conducted a first reading of this ordinance.

FISCAL IMPACT

There is no fiscal impact.

Laurence S. Wiener, City Attorney

Approved By

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
REGARDING CHARITABLE SOLICITATIONS AND
AMENDING THE BEVERLY HILLS MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS DOES ORDAIN
AS FOLLOWS:

Section 1. Article 8 of Chapter 3 of Title 4 of the Beverly Hills Municipal Code is hereby amended to read as follows:

“ARTICLE 8. CHARITABLE SOLICITATIONS

4-3-801: PERMIT REQUIRED: No person shall engage in or carry on any solicitation for contributions for any charitable purpose without a permit issued under the provisions of chapter 1, article 1 of this title.

4-3-802: EXEMPTIONS:

- A. Except as provided in sub-section (B) below, the provisions of this article shall not apply to an organization which solicits contributions from among the members of such organization, or to solicitations or collections made upon premises which are owned or occupied by such organization.
- B. The provisions of this article shall apply to a retail business that represents that any portion of the proceeds from the sale of merchandise will be used for a charitable purpose.

4-3-803: DEFINITIONS: The following definitions shall apply to this article:

CHARITABLE: Means and includes the words patriotic, philanthropic, social services, welfare, benevolent, educational, civic or fraternal, either actual or purported.

CONTRIBUTIONS: Means and includes food, clothing, money, subscriptions, property or donations given or solicited either directly or under the guise of a loan.

EVENT: Means a single solicitation activity.

HOTEL: Means a “hotel” as defined in Section 10-3-100 of this Code.

**MONETARY
DRIVE:** Means multiple solicitation activities.

**SOLICIT AND
SOLICITATION:**

The direct or indirect request for money, pledges, credit, property, financial assistance or other thing of value either by way of donation or as consideration for services, or the sale of merchandise when representation is made that any portion thereof will be used for a charitable purpose. A solicitation shall be deemed completed when such a request has been made.

4-3-804: APPLICATIONS:

- A. Applications for a charitable solicitation permit shall be filed with the city a minimum of fifteen (15) days prior to the date the proposed solicitation is to commence. Each application shall indicate whether the proposed solicitation is an event or a monetary drive.
- B. The application shall be accompanied by a financial statement of the applicant for the previous such solicitation conducted within Beverly Hills by the applicant, setting forth the funds collected for charitable purposes by the applicant, and stating the amount raised through solicitations, together with the cost of raising such amount and the final distribution thereof; and an authorization for city inspection of the applicant's financial records and files.
- C. Renewal applications shall be filed ten (10) days prior to expiration of the existing permit.
- D. No fee shall be charged for a solicitation permit required by the provisions of this article.

4-3-805: REVIEW OF APPLICATIONS BY SOLICITATIONS ADVISORY COMMISSION: After filing of the application, the application shall be submitted to the solicitations advisory commission for review and recommendation. The commission shall review the application, and shall also review any information furnished by the police department, based on their investigation of the applicant; and the commission shall then make a recommendation to the official empowered by the city to grant or deny the permit.

4-3-806: COMMISSION RECOMMENDATION: The city official empowered to grant or deny the application may consider the recommendation of the commission prior to acting on the permit request, provided further, the official is not bound by the recommendation, and shall grant or deny the permit based solely on the criteria set forth in section 4-3-807 of this article. If the commission fails to make a recommendation within ten (10) days after filing of the application, the city official empowered to act on the application may grant or deny the permit without a recommendation from the commission. The city official empowered to act on the application shall grant or deny the permit within fourteen (14) days after filing of the application, and shall grant or deny the renewal of an existing permit prior to the expiration of such permit.

4-3-807: GENERAL CRITERIA FOR ISSUANCE OR DENIAL:

- A. In lieu of the criteria for issuance or denial of a permit under provisions of section 4-1-103 of this title the following criteria shall apply to issuance or denial of a solicitation permit under this article. The permit will be issued by the official designated by the city to act on the application unless there is a finding that:
1. The information contained in the application is incomplete, false, or intentionally misleading.
 2. The kind, character, and method of the solicitation, the time when it will take place, or its duration are such that the solicitation will be inimical to the safety, convenience, or welfare of the inhabitants of the city.
 3. If the application is for a renewal or subsequent permit, that the applicant has violated provisions of the previous permit, or the ordinances or regulations of the city in the conduct of previous solicitations.
- B. Notwithstanding the presence of one or more grounds for denial listed above, the city official empowered to act on the application may approve the permit if the applicant agrees to abide by such conditions as imposed by the official to negate any circumstances that would otherwise justify denial.

4-3-808: TERM OF PERMIT: A solicitation permit issued for an event pursuant to this article shall be valid for a period not to exceed ninety (90) days from the date of issue, provided further, such permit may be extended for an additional period not exceeding an additional thirty (30) days upon filing a renewal application and demonstrating good cause for such extension. A solicitation permit issued for a monetary drive pursuant to this article shall be valid for a period not to exceed twelve (12) months from the date of issue.

4-3-809: PERMITS NONTRANSFERABLE: Any permit issued for solicitation under provisions of this article is nontransferable notwithstanding section 4-1-112 of this title.

4-3-810: NONDISCRIMINATION: The official designated by the city to act on permit applications shall uniformly consider each application upon its merits and shall not discriminate in granting or denying permits and shall not deny any permit based upon political or religious grounds or reasons.

4-3-811: RESTRICTIONS AND PROHIBITIONS: Any solicitation regulated by this article shall comply with the following provisions:

- A. Solicitation upon private residential premises is prohibited at premises that contain a conspicuously posted sign stating “no solicitation” or “do not disturb”, unless the solicitor has been invited to the premises by the owner or occupant thereof.
- B. Solicitation by means of a box or other receptacle shall be prohibited in, upon or adjacent to any street, alley, sidewalk, park, or other public place; or in or upon any place of

business or other place open and accessible to the public; unless the permit specifically authorizes this type of solicitation.

- C. Solicitation of funds for a purpose other than designated in the permit shall be prohibited.
- D. Solicitors shall not misrepresent their physical or mental health, or make other false or misleading representations.
- E. Solicitors shall not touch, come into physical contact with, or affix any object to the person of any member of the public, without first receiving express permission therefor from such member of the public.
- F. Solicitors shall not persistently and importunately solicit any member of the public after such member of the public expresses a desire not to be solicited.
- G. Solicitors shall not solicit from persons who are standing in lines, seated in public areas, waiting at bus stops or similarly stationary for a specific purpose that would not allow evasion of the solicitation.
- H. Solicitors shall not intentionally or deliberately obstruct the free movement of any member of the public on any street, sidewalk, or other place, or in any place open to the public generally.
- I. All solicitations made by mail shall include a copy of the solicitation permit.
- J. Charitable events involving solicitations of funds shall have a copy of the permit prominently displayed on the premises.
- K. Solicitors shall have in their possession at all times, when engaged in the activity regulated by this article, a copy of the solicitation permit, and shall display said copy upon request of any person being solicited.

4-3-812: WRITTEN RECEIPTS REQUIRED FOR DONATIONS: Any solicitation regulated by the provisions of this article which results in a contribution of one dollar (\$1.00) or more in value shall require the solicitor to furnish a written request to the person making the contribution upon request of such person.

4-3-813: RECORDS AND REPORTS:

- A. The permittee shall compile and retain for a period of not more than three (3) years detailed records and a financial statement showing the amount of funds raised by the solicitation, the amount expended in collecting such funds, including a detailed report of the wages, fees, commissions, and expenses paid to any person in connection with such solicitation, and the disposition of the balance of the funds collected by the solicitation.
- B. Within thirty (30) days of expiration of the permit, or completion of the solicitation, whichever occurs first, the permittee shall file a complete and detailed report of the

information required by subsection A of this section with the city. Such report shall be a public record and be available for public inspection.

4-3-814: CHARITABLE SOLICITATIONS PACKET: Hotels that lease or rent facilities for solicitations for contributions for any charitable purpose shall comply with the following provisions:

- A. Prior to executing the lease or rental agreement, the hotel shall (i) provide the prospective lessee or renter with a city-issued charitable solicitations packet that describes the requirements of this article; and (ii) require such person to execute a city-issued acknowledgment form that confirms receipt of the packet.
- B. Within five (5) days of the execution of the lease or rental agreement, the hotel shall deliver the executed acknowledgement form to the city.”

Section 2. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 3. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code; shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 4. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:

JIMMY DELSHAD
Mayor of the City of
Beverly Hills, California

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

Approved as to form:



LAURENCE S. WIENER
City Attorney

Approved as to content:

RODERICK J. WOOD
City Manager



DAVID SNOWDEN
Chief of Police