

Ordinance No. 018-2023

An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida Providing Amendments To Chapter 78, Peddlers And Solicitors At Article III. Charitable Solicitations Division 1. Generally, By Amending Section 78-77. Definitions, By Deleting Section 78-79. Receipts Required, By Amending Section 78-80. Misrepresentation Prohibited And By Renumbering Said Section, And By Adding Section 78-80. Duties Of Permittee And 78-81. Possession; Further Amending Division 2. Permit At Section 78-101. Required; Exceptions, Section 78-102. Application, Section 78-104. Town To Issue Permit, Section 78-105. Fees, Section 78-106. Permit Form, Duration, Section 78-108. Credentials For Solicitors, Section 78-109. Permit Suspension, Revocation, By Deleting Sections 78-110. Permittee To Keep Records, Section 78-111. Reports Required, By Amending Section 78-112. Appeals And Section 78-113. Penalties And By Renumbering Said Sections; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date.

BE IT ORDAINED by the Town Council of the Town of Palm Beach as follows:

Section 1 –

Chapter 78, Peddlers and Solicitations is hereby amended at Article III Charitable Solicitations as follows:

ARTICLE III. CHARITABLE SOLICITATIONS

DIVISION 1. GENERALLY

Sec. 78-76. Findings of necessity.

It is found and determined by the town council that the public welfare of the town requires that the solicitation of funds for charitable purposes be regulated.

Sec. 78-77. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Charitable means and includes the words patriotic, philanthropic, religious, social service, welfare, benevolent, educational, civic, or fraternal, either actual or purported.

Contributions means and includes the words alms, food, clothing, money, subscription, property, or donation, including when under the guise of a loan of money or property.

Cost of solicitation means all costs of whatever nature incurred by the person conducting a solicitation in raising the funds solicited.

Professional promoter means a person who, for compensation, plans, conducts, manages, or carries on or attempts to plan, conduct, manage, or carry on any drive or campaign for the purpose of soliciting contributions for or on behalf of any charitable organization or person, or engages in the business of, or who holds him or herself out as independently engaged in the business of, soliciting contributions for charitable purposes. A bona fide officer or regular employee of a person shall not be deemed a professional promoter by reason of his or her participation in a charitable solicitation made by or on behalf of his or her employer.

Professional solicitor means any person other than a professional promoter who is employed or retained for compensation to make solicitations in connection with a charitable solicitation.

Solicit and *solicitation* mean the request, either directly or indirectly, for money, credit, property, financial assistance, or other things of value on the plea or representation that such money, credit, property, financial assistance, or other things of value will be used for a charitable purpose. *Solicit* and *solicitation* shall not include food drives, toy drives, or school supply collections traditionally undertaken in the town prior to the adoption of the ordinance from which this section is derived.

Sec. 78-78. Waiver of provisions.

The town council may, in its discretion, waive any requirements of this article.

Sec. 78-79. Receipts required.

- (a) ~~Any solicitor or agent receiving money or anything of the value of \$1.00 or more from any contributor to a charitable solicitation shall give to the contributor a written receipt signed by the solicitor showing plainly the name, permit number of the person under whose permit the solicitation is conducted, the date the person makes the donation, and the amount or thing and value thereof received. No such receipt, however, shall be required where the solicitation is in the form of the sale of numbered tickets and such tickets are given to the contributor, or where the solicitations is in the form of a benefit, bazaar or similar event and the contribution is solicited on the premises on which such event is being held.~~
- (b) ~~The receipts required by this article shall be in duplicate or in the form of a numbered receipt and matching numbered stub, the duplicate copy or the stub, as the case may be, shall be retained by the solicitor and turned over to the permittee in charge of the solicitation.~~

Sec. 78-7980. Misrepresentation prohibited.

No person shall directly or indirectly solicit contributions for any purpose by misrepresentation of his or her name, occupation, financial condition, social condition, or residence; ~~and~~ and no person shall make or perpetrate any misstatement, deception, or fraud in connection with any solicitation of any contribution for any purpose in the town, or in any application or report filed under this article.

Sec. 78-80. Duties of permittee.

The permittee under this division shall comply with all provisions of this article, other laws and ordinances of the town, state, and federal government, and all permit directions and conditions of the permit.

Sec. 78-81. Possession.

The person heading or leading the charitable event shall carry the charitable solicitations permit upon his or her person during the conduct of the event and shall be present at the event.

DIVISION 2. PERMIT

Sec. 78-101. Required; exceptions.

No person or agent of such person shall solicit contributions for any charitable purpose or person within the town without a permit issued by the town ~~clerk~~ authorizing such solicitation; however, the provisions of this article shall not apply:

- (1) To any solicitation made by a person organized and operating exclusively for charitable purposes and not operated for the pecuniary profit of any person if the solicitation by such is conducted solely among the established and bona fide membership thereof by other members or officers thereof, voluntarily and without remuneration for making such solicitations; or
- (2) If the solicitation is in the form of collections or contributions at a regular assembly or services of such established person.

Sec. 78-102. Application.

- (a) Each application for a permit to solicit contributions for a charitable purpose or persons shall be made to the town ~~on forms provided by it, which shall be available at the office of the town clerk.~~
- (b) Each application shall ~~be complete to address all requested information, and be sworn to and filed with the town at the office of the town clerk at least 60 days prior to the proposed effective date of the permit applied for. Permits applied for less than 60 days prior to the effective date of the permit shall be subject to late fees as determined by resolution of the town council as may be amended from time to time.~~

(c) — Each application shall contain the following information:

- (1) — The name, date of birth, address or headquarters of the person applying for the permit.
- (2) — 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 as to a true and correct copy of the officer having charge of the applicant's records.
- (3) — 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 such funds.
- (4) — A specific statement, supported by reasons, and, if available, figures showing the need for the funds to be solicited.
- (5) — The names, date of birth and address of the person or persons by whom the receipts of such solicitation shall be disbursed.
- (6) — the names, date of birth and addresses of the person or persons who will be in direct charge of conducting the solicitation.
- (7) — An outline of the method or methods to be used in conducting the solicitation.
- (8) — The time when such solicitation shall be made, giving the dates for the beginning and ending of such solicitation.
- (9) — The estimated cost of solicitation.
- (10) — The names, dates of birth and addresses of all professional promoters and professional solicitors who will be connected with the solicitation and the amount of wages, fees, commissions, expenses or emoluments to be paid to each professional promoter and professional solicitor, and a copy of the contract, if any, given each professional promoter.
- (11) — A schedule for the last preceding fiscal year of any funds collected in the town through a charitable solicitation by the applicant, which schedule shall disclose the amount of money so raised, together with the direct cost of raising it, the final distribution of net proceeds and the percentage of net proceeds applied directly to functions and activities within the state, within the town and within the county.
- (12) — A statement as to what the actual cost of the solicitation will be, expressed as a percentage of the total amount to be raised. This statement relating to cost of solicitation shall include a specific statement as to donations of in-kind contributions and the estimated value of same. Additionally, statement

~~as to the amount of the funds raised estimated to be applied directly to functions and activities within the town and the state.~~

- ~~(13) A statement to the effect that if the permit is granted, it will not be used or represented in any way as an endorsement by the town or by the town council of the solicitation conducted thereunder.~~
- ~~(14) A copy of an approved registration statement filed with the state division of consumer services of the department of agriculture and consumer services shall be filed with the town prior to solicitation being conducted within the town or a permit granted under this division. This registration statement shall affirmatively show that it shall be in effect for the full duration of any solicitation to be conducted within the town. The registration statement shall not be required if the organization is determined to be exempt from registration pursuant to F.S. ch. 496.~~
- ~~(d) Any delinquent fees from prior filings or events must be paid at the time of application in addition to current fees as prescribed in this division.~~
- ~~(e) If an applicant cannot furnish some of the information required by this section, a detailed statement shall be given of the reasons why such information cannot be furnished.~~
- ~~(cf) If, while any application is pending, or during the term of any permit granted pursuant thereto, there is any change in fact, policy, or method that would alter the information given in the application, the applicant shall notify the town in writing thereof within 4824 hours after such change.~~

Sec. 78-103. Information contained in the application to be public.

The information contained in the application for a permit to solicit funds for charitable purposes shall be available to the public.

Sec. 78-104. Town clerk to issue permit.

The town ~~clerk or designee~~ shall issue a permit to solicit funds for a charitable purpose unless one or more of the following facts are found to exist:

- (1) That not all statements made in the application are found to be true.
- (2) The required documentation and application are incomplete.
- ~~(2) That the applicant is, or has engaged in, a fraudulent action or enterprise.~~
- ~~(3) That the solicitation will be a fraud upon the public.~~

- (4) ~~That the solicitation is not prompted solely by a desire to finance the charitable cause described in the application, but will be conducted primarily for the private personal benefit of the people conducting it.~~

Sec. 78-105. Fees.

~~Before a permit is issued pursuant to this article, there shall be paid to the town clerk an administrative processing fee, and in the event of a late filing a late filing fee, in accordance with the fee schedule adopted by the town council by resolution as may be amended from time to time. This provision shall not apply to the first three events held in any given year by organizations which receive financial support from the town through its budgeting process, provided that the application and all required documentation is received at least 60 days prior to the proposed effective date of the permit applied for.~~

Sec. 78-106. Permit form, duration.

Permits issued under this article shall bear the name and address of the person 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 town or the town council of the purpose of, or the person conducting the solicitation. All permits shall be signed by the town clerk or designee and shall be in effect for the time stated thereon, but in no event shall the permit be valid beyond 12 months from the date of issuance, and in no event shall the permits be valid for more than two events during the 12-month period from the date of issuance. This limitation shall not apply to organizations which receive financial support from the town through its budgeting process or to businesses located within the town which raise funds for charity as a percentage of sales of merchandise.

Sec. 78-107. Permits nontransferable.

Permits issued under this article shall be nontransferable.

Sec. 78-108. Credentials for solicitors.

- (a) All persons to whom permits have been issued under this article shall furnish proper credentials to their agents and solicitors for such solicitation. Such credentials shall include the name of the permit holder, the date of issuance, a statement describing the permittee's charitable activity, a description of the purpose of the solicitation, including a statement as to whether professional solicitors are being used in the solicitation, the signature of the permittee or of its chief executive officer, and the name, address and signature of the solicitor to whom such credentials are issued and the period of time during which the solicitor is authorized to solicit on behalf of the permit holder.
- (b) No person shall solicit under any permit granted under this article without the credentials required by this article and a ~~facsimile~~ copy of the permit in his or her possession. The credentials and ~~facsimile~~ copy of the permit must be shown to all persons solicited.

Sec. 78-109. Permit suspension, revocation.

When the town manager or designee has reason to believe that any person to whom a permit has been issued under this article or any promoter, agent, or solicitor of such permittee has misrepresented the purpose of the solicitation, the town manager or designee may direct the town clerk to suspensiond of the permit of such person. Upon such direction, the town clerk or designee shall forthwith give written notice of such suspension by certified mail to such person at his last known address. The notice shall contain a statement of the grounds on which the suspension is based and shall set a date for hearing before the town council not more than 12 days after the date of suspension. Notice of such hearing shall be given such person at least five days prior to the date of hearing unless such person shall waive such period of notice. At such hearing the town council may permanently revoke such permit if it finds there were grounds for such suspension, or take such other action as it deems advisable.

Sec. 78-110. Permittee to keep records.

Every person granted a permit under this article shall maintain a system of accounting that shows to the satisfaction of the town all contributions solicited and the disbursement thereof.

Sec. 78-111. Reports required.

Every permit holder shall make available to the town manager or to any person designated in writing by the town manager as the representative for such purpose, all books, records and papers for the purpose of checking the accuracy of the report required by this section.

Sec. 78-110112. Appeals.

The town manager or his designee shall have the authority to revoke a charitable solicitation permit issued under this division upon violation of the terms of the permit. The permit shall be determined to be null and void and may be immediately terminated. If a charitable solicitation permit is denied or revoked, any person aggrieved shall have the right to appeal to the town council. The appeal must be filed at least five days prior to the next available meeting of the town council subsequent to the notice of appeal. If a permit for a charitable solicitation is denied, an appeal shall be afforded to the town council at the next available meeting of the town council subsequent to the date of denial.

Sec. 78-111113. Penalties.

Persons found to be in violation of any provision of this chapter may be subject to penalties provided by law for the violation of municipal ordinances or, alternatively, may be subject to the jurisdiction of the code enforcement board. Nothing in this section shall prevent the town from seeking civil injunctive relief if deemed appropriate by the town in the circumstances. Any person, organization, corporation, agency, or entity that engages in charitable solicitation without having first obtained a valid permit shall be assessed a

penalty, in accordance with the fee schedule adopted by the town council by resolution as may be amended from time to time.

Section 2 – Severability.

If any provision of this oOrdinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this oOrdinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this oOrdinance are hereby declared severable.

Section 3 – Repeal Of Ordinances Or Parts Of Ordinances In Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof, which conflict with this or any part of this oOrdinance are hereby repealed.

Section 4 – Effective Date.

This oOrdinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach, Florida, on the First Reading the 10th day of October 2023; and for the Second and Final Reading on this 14th day of November 2023.

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie D. Lindsay, President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Edward Cooney, Town Council Member

Kelly Churney, Acting Town Clerk

Lewis S.W. Crampton, Town Council Member