

**O-100306**

**AN ORDINANCE OF THE COUNTY COMMISSIONERS OF NEWTON COUNTY FOR THE PURPOSE OF ADOPTING A SOLICITATION ORDINANCE; PROVIDING FOR PERMITS FOR PEDESTRIAN SOLICITATION; CONTROLLING LOCATION AND REQUIREMENTS FOR SOLICITORS; PROVIDING FOR ENFORCEMENT AND PENALTIES; AND FOR OTHER PURPOSES**

**WHEREAS**, under O.C.G.A. §§40-6-97 and 40-6-97.1, and under the general powers vested by law, Newton County has the authority to regulate solicitation on roadsides and elsewhere in the County; 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 Newton County to fraudulent solicitors, and harms legitimate charities; and

**WHEREAS**, Newton County currently regulates pedestrian solicitation under the Code of Ordinances, Newton County, Georgia, Division II, Chapter 32, Article 2, Section 32-202

**WHEREAS**, the Commissioners deem it to be in the best interests of the citizens of the County that the Solicitation Ordinance be amended in accordance with law;

**NOW THEREFORE, BE IT ORDAINED**, and IT HEREBY IS ORDAINED, pursuant to Georgia law and the powers vested in the Board of Commissioners, that Section 32-202, Code of Ordinances, Newton County, Georgia, is hereby deleted in its entirety and the following Newton County Solicitation Ordinance is inserted in lieu thereof:

**Section 32-202                      Solicitation Ordinance of Newton County, Georgia**

**1. 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 the roadway and also put drivers and other pedestrians at risk. The citizens of Newton County 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 County, to protect the public health, safety and welfare.

## 2. DEFINITIONS

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

1. **Applicant** shall mean the charitable organization seeking a permit.
2. **Charitable Organization** means organizations which are 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 Secretary of State under O.C.G.A. § 43-17-5 or be exempt from such registration under O.C.G.A. § 43-17-9.
3. **Organizer** means the person responsible for organizing the solicitation event and whose name shall be on the application.
4. **Permit** shall mean a permit issued pursuant to this Ordinance.
5. **Sheriff** means Sheriff of Newton County or his or her designee.
6. **Solicitor** means any person who engages in solicitation. Each person engaged in solicitation must be over 18 years old.
7. **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. Solicitation does not include the sale of items on State roadways. Solicitation does include the sale of items by a charitable organization on County roadways.

## 3. RESTRICTIONS

A. Solicitation Restricted. Pursuant to O.C.G.A. § 40-6-97(b), Newton County prohibits any person from standing or entering on a highway or public street of the County for the purposes of soliciting employment, business solicitations, and/or contributions from the occupant of any vehicle or any pedestrian without a permit. Solicitation shall only be allowed by charitable organizations with a permit, under the terms of this Ordinance. It shall be a violation of this Ordinance to engage in solicitation without a permit, or otherwise not in accordance with the terms of this Ordinance and the permit.

B. Permit Required. No charitable organization is allowed to engage in solicitation on any public street or highway in the County without first obtaining a permit. All permits shall be obtained from the Sheriff. Persons, businesses and organizations that are not charitable organizations as defined in this Ordinance are not eligible to receive a permit for solicitation.

#### 4. PERMIT REQUIREMENTS

A. Permit Application. All requests for a permit must be provided to the Sheriff at least five (5) business days but no more than sixty (60) calendar days prior to the date of the requested activity. The Sheriff shall issue a decision within three business days of the application being filed. The Sheriff, for good cause shown, shall have the authority to consider any application under this section which is filed less than five business days before the date such solicitation event is proposed to be conducted, provided the Sheriff shall have adequate time to conduct the investigation. An application and permit shall be required for each solicitation event.

B. Required Information. All applications for 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 Newton County office, or the address of the closest branch office if there is no Newton County office;
2. Type of organization and certification, if required below. The organization must be one of the following types to apply for a permit:
  - a. Organization qualified under Section 501(c) of the Internal Revenue Code of 1986, including certification from IRS;
  - b. Non-profit corporation registered in Georgia, including certification from Secretary of State;
  - 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 driver's license or other official photo identification of each Organizer;
5. Proposed solicitation activity, and purpose for activity (i.e., use of funds);
6. Specific location(s) for solicitation activity, including specific intersections, and number of solicitors at each such location;
7. Dates and times of solicitation activity and the proposed duration of the solicitation;
8. Names of all participants proposed to be solicitors;

9. If the solicitation 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 permit;

10. 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 organization for a background check to be run by the Sheriff at his discretion on any person named on the application, and a statement that all information contained thereon is true and correct; and

11. Any additional information the Sheriff may find reasonably necessary for a fair determination as to whether the proposed solicitation event will endanger public health, safety or welfare.

D. Organizer. A minimum of one organizer is required for each solicitation event. No more than five persons shall be designated organizers. The organizer(s) are required to be present in person at all times. There shall be one organizer for each location where solicitation is occurring. All solicitation 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.

E. Permit Onsite. The signed permit is to be kept on-site in the possession of an organizer at all times that solicitation is underway. If multiple locations are involved, a permit copy shall be kept at each location by each organizer. Permits shall be displayed at the request of any citizen or law enforcement personnel.

F. Fees. An application shall be accompanied by an application fee of \$50.00 to cover the cost of investigation. These fees may be raised from time to time by the Board of Commissioners.

## **5. INVESTIGATION AND ISSUANCE**

A. Investigation. The Sheriff shall review the application for completeness and compliance with the terms of this Ordinance. The Sheriff shall check if the charitable organization is registered with the Secretary of State, or is exempt under O.C.G.A. § 43-17-9. The Sheriff shall determine whether there are any records of complaints against the applicant or organizers in the records of the Sheriff's Department or the GCIC/NCIC crime database system. The Sheriff may, at his discretion, conduct a background check of the organizers or corporate officers, or any other person named on the application. The Sheriff may, at his discretion, make any other inquiries he deems necessary for the investigation of the applicant or the organizers.

B. Decision. The Sheriff may grant, deny, or grant a restricted permit. The Sheriff shall issue a permit as provided in this Ordinance from a consideration of the application and from such information as may otherwise be obtained, unless he finds that any or all of the following apply:

1. The conduct of the solicitation event will substantially interrupt the safe and orderly movement of traffic;
2. The conduct of the solicitation 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 Sheriff has reasons to believe the solicitation event is a fraud or sham;
6. If a charitable organization required to be registered with the Secretary of State under O.C.G.A. § 43-17-5, it is not so registered;
7. The conduct of the solicitation event is contrary to the public's health, safety or general welfare; or
8. The application was not complete, or the application or permit requested is not fully in compliance with the requirements of this Ordinance.

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

C. Restrictions. The Sheriff shall indicate on the permit the permitted activities, locations, and times of the solicitation event. The Sheriff may approve a smaller or shorter solicitation event than requested, may reduce the number of solicitors, may approve a different location, or may generally make any other adjustments he 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 a permit.

## **6. SOLICITATION REGULATIONS**

A. Prohibited Times. No solicitation shall be allowed during the following times:

1. Between the hours of 7:00 a.m. and 9:00 a.m. Monday through Friday, excluding holidays;
2. Between the hours of 6:00 p.m. and 7:00 p.m. Monday through Friday, excluding holidays;
3. At any time after sunset or before sunrise.

B. Locations.

The Sheriff and Chairman of the Board of Commissioners may jointly designate intersections at which solicitation shall be prohibited. The Sheriff shall maintain a list of prohibited intersections.

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. No more than one organization may solicit at the same intersection at the same time. A solicitation event may occur at more than one location or intersection on the same day.

C. Duration. A permit is valid for the length of time specified in the application, unless such duration is shortened by the Sheriff under subsection 5.C. of this Ordinance. A separate permit shall be required for each additional solicitation event. The number of permits issued during a calendar year shall be limited to two per qualified charitable organization.

D. Age of Solicitors. All solicitors must be over the age of 18.

E. Conduct. Each participant of an authorized solicitation shall wear an orange reflective vest, and an identification tag or other material visible to the vehicular occupants solicited that accurately identifies the charitable organization soliciting. The applicant shall post adequate notices at least 500 feet in front of the solicitation warning oncoming traffic of the presence of the solicitation in a safe manner and location previously approved by the sheriff or his designee.

## **7. VIOLATIONS, ENFORCEMENT**

A. Persons soliciting without a permit or in violation of the permit shall be cited with a citation for prosecution in the Magistrate Court, in accordance with the requirements of law for such citations. Any sheriff's deputy shall be authorized to issue such citations.

B Any person, organization, business or entity violating 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. The permit shall be immediately revoked upon any violation of this Ordinance. The Sheriff shall also have the discretion to revoke the permit upon a charge of violation being made, or upon awareness of illegal or unauthorized activity, if 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 a permit for a two-year period from the date of the violation. Upon second offense, the person, organization, business or entity found guilty of violating this Ordinance shall be banned from further solicitation in Newton County.

**8. 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 Commissioner to provide for separable and devisable parts and he does hereby readopt any and all parts hereof as may not be held invalid for any reason.

**9. REPEALER**

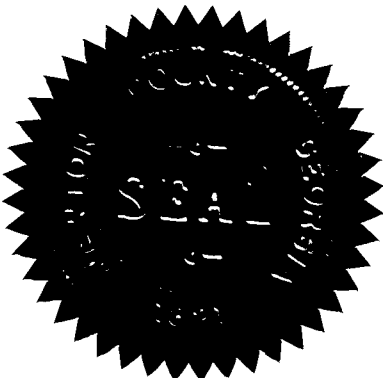
This Ordinance repeals any prior ordinance or resolution in conflict herewith, except to the extent that said ordinance or resolution is more restrictive than this Ordinance, in which case that ordinance or resolution shall control.

**SO ADOPTED** this 3rd day of October, 2006.

**NEWTON COUNTY BOARD OF COMMISSIONERS**

By: *Aaron Varner*  
Aaron Varner, Chairman

Attest: *Jackie Smith*  
Jackie Smith, Clerk



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