**ORDINANCE 16-2014**

**OF THE GOVERNING BODY**

**OF THE BOROUGH OF BLOOMINGDALE**

**AN ORDINANCE OF THE BOROUGH OF BLOOMINGDALE, IN THE COUNTY OF PASSAIC AND STATE OF NEW JERSEY, AMENDING Chapter IV, “GENERAL LICENSING,” OF THE CODE OF THE BOROUGH OF BLOOMINGDALE BY ADDING Section 4-12, "roadway solicitiation" for the issuance of permits TO CHARITABLE ORGANIZATIONS FOR ROADWAY SOLICITATIONS**

**WHEREAS**, the Senate and General Assembly of the State of New Jersey have enacted legislation amending *N.J.S.A.* 39:4-60 prohibiting solicitation of charitable contributions from motorists on roadways in the State of New Jersey unless authorized by ordinance of the municipality in which said roadways are situate.

**WHEREAS**, the Borough of Bloomingdale desires to permit charitable organizations to solicit contributions within the Borough subject to certain restrictions and conditions, pursuant to a roadway charitable solicitation permit issued by the Borough; and

**WHEREAS**, the Borough of Bloomingdale Township Committee deems it to be in the public interest to permit charitable organizations as defined by *N.J.S.A.* 45:17A-20 to solicit contributions in roadways situate in the Borough of Bloomingdale, provided same is done in a safe and reasonable manner;

**NOW, THEREFORE BE IT ORDAINED**, by the Mayor and Borough Council of the Borough of Bloomingdale, in the County of Passaic and State of New Jersey, as follows:

**SECTION 1**. Chapter IV, "General Licensing" of the Code of the Borough of Bloomingdale is hereby amended to add Section 4-12 "Roadway Solicitation" which shall read in its entirety as follows:

**4-12. ROADWAY SOLICITATION**

**4-12.1 AUTHORIZATION**

A. Pursuant to *N.J.S.A.* 39:4-60 and *N.J.A.C.* 16:40-1.1, authorized charitable organizations as defined in *N.J.S.A.* 45:17A-20 are hereby permitted to solicit contributions in the right-of-way of a highway located within the Borough subject to the provisions and restrictions contained in this chapter.

**4-12.2 PERMITS**

A. Permit Required. All charitable organizations who desire to solicit contributions in roadways situate in the Borough of Bloomingdale must obtain a permit from the Borough of Bloomingdale. Each roadway solicitation shall require a separate permit. No permits shall be issued by the Borough for more than two solicitations per month. There shall be no fee for the issuance of the permit.

B. Application. An application for a permit shall be filed with the Bloomingdale Borough Clerk on a form supplied by said Clerk specifying the following information:

(1) Name, address, telephone number of applicant organization

 (2) Name, address, telephone number of contact person for applicant organization

 (3) Date and time of proposed charitable solicitation

 (4) A description of the manner in which the motorist solicitation will be conducted

 (5) Specific location of proposed charitable solicitation

 (6) Sketch of proposed location

 C. County or State Roadways. If said request pertains to a location or locations on any County highway, or intersection of a County highway, said application shall include a copy of an authorization from the Passaic County Board of Chosen Freeholders to permit said charitable solicitation. If said request pertains to a location or locations on any State highway, or intersection of a State highway, said application shall include a copy of an authorization from the Commissioner of Transportation of the State of New Jersey to permit said charitable solicitation.

**4-12.3 REVIEW OF PERMIT APPLICATION**

Upon filing of a complete application in accordance with the provisions of this Ordinance, the application shall be reviewed by the Borough Clerk and the Chief of Police or his designee. The Police Chief is hereby authorized to issue a letter of endorsement for the issuance of a permit subject to his/her review. The application and the letter of endorsement, if issued, shall be transmitted by the Borough Clerk to the Borough Council who shall approve or deny the application. If the applicant's request is granted, a permit shall be issued to the applicant which shall be subject to the representations contained in the applicant's application and any other conditions as imposed by the Borough. An approved applicant must submit a Certificate of Insurance naming the Borough as an additional insured at least three days prior to the event

**4-12.4 DENIAL OR PERMIT AND APPEAL**

A. The Borough Council may deny a permit based on the following reasons:

 (1) To ensure that traffic flow is not unreasonably impeded, interrupted, or delayed;

 (2) The design of the particular highway and/or intersection, turning movements, traffic densities, and/or speeds do not permit the safe interaction between the solicitor and vehicular traffic;

 (3) The solicitation would interfere with construction activity; or

 (4) To protect the public safety.

B. If the Borough Council denies a permit, the notice of denial will set forth the reasons for the denial.

C. An applicant who has been denied a roadway charitable solicitation permit may appeal such denial to the Borough Council of the Borough of Bloomingdale.

D. The applicant may submit a written request for reconsideration to the Borough Council, within 30 days of denial of a permit.

**4-12.5 COMPLIANCE**

A. Any organization requesting authorization from the Borough of Bloomingdale for solicitation shall comply with all the terms and conditions of *N.J.S.A.* 39:4-60, by P.L. 1997, Chapter 82, approved April 30, 1997 and the Code of the Borough of Bloomingdale.

B. Organizations must adhere to the following conditions:

 (1) Only adults over the age of 18 shall be allowed in the roadway;

 (2) Adults soliciting in the roadway, or within 15 feet of the roadway, must wear properly sized, ANSI 107-2004 Class 2 or 3 high visibility apparel. Wearing non- ANSI approved apparel will be reason for immediate cessation of the event;

 (3) Solicitation shall only be permitted at signalized intersections during daylight hours;

 (4) Solicitation may not stop or impede vehicular or pedestrian traffic. Traffic must be stopped before solicitation can begin, and cease when traffic resumes movement. Flagmen are not permitted to be utilized to control or regulate traffic movement;

 (5) Solicitors may not harass the motorists or public;

(6) Solicitors shall not consume or be under the influence of alcohol or drugs; and

 (7) The organization will be responsible for cleaning any debris from the solicitation site within two hours of the end of solicitation.

**4-12.6 CESSATION OF OPERATIONS**

The Department of Transportation, Passaic County official, or any Borough official or law enforcement officer can order the charitable organization to cease roadway solicitation operations based upon, but not limited to: roadway issues, public safety concerns, weather conditions, or traffic conditions. This cease order does not transfer any liability or exposure to expenses to the official who is delaying or revoking the coin drop event.

**4-12.7 VIOLATIONS AND PENALTIES**

The general penalty provision as contained in Section 1-5 of the Revised General Ordinances of the Borough of Bloomingdale shall apply. Each violation of any of the provisions of this section and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

**SECTION 2**. All ordinances or parts of ordinances of the Borough of Bloomingdale inconsistent herewith are repealed to the extent of such inconsistency.

**SECTION 3**. If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

**SECTION 4**. This law shall take effect immediately upon final passage, approval and publication as required by law.

**NOTICE**

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced and passed on first reading at an Official Meeting of the Governing Body of the Borough of Bloomingdale held in the Municipal Building on the 7th day of  October, 2014, and the same shall come up for final passage at an Official Meeting of the Governing Body to be held on the 21st day of October 2014, at 7:00 P.M., at which time any persons interested shall be given the opportunity to be heard concerning said Ordinance.

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Jane McCarthy, Municipal Clerk