

AN ORDINANCE

of the Council of the City of Berkley, Michigan
Amending Chapter 34 Charitable Solicitations,
of the Berkley City Code to Modify Solicitation Permit Application Requirements.

THE CITY OF BERKLEY ORDAINS:

SECTION 1: Chapter 34 Charitable Solicitations, of the Berkley City Code shall be amended, as follows:

Chapter 34
CHARITABLE SOLICITATIONS
Article I. In General

Sec. 34-1. Definitions.

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

Person: Any individual, firm, copartnership, corporation, company, association or joint stock association, church, religious sect, religious denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

Solicit and solicitation: The request of money, credit, property, financial assistance or other thing of value by telephone, personal interview or otherwise on the plea or representation that such money, credit, property, financial assistance or other thing of value, or any part thereof, will be used for a charitable, religious, patriotic, civic, educational or philanthropic purpose. Such words shall also mean the placing of canisters for the receipt of money in business establishments of other public places. Such words shall also mean and include the sale or offer to sell any article, tag, ticket, emblem, publication, subscription or other thing, whether of value or not, on the plea or representation that such money, credit, property, financial assistance or other thing of value, or any part thereof, whether received by the solicitor or purchased by the buyer, will be used for a charitable, religious, patriotic, civic, educational or philanthropic purpose. Patriotic organization shall mean any veteran's organization incorporated under federal law.

Sec. 34-2. Exceptions to chapter provisions.

The provisions of this chapter shall not apply to solicitations conducted exclusively within the membership of an organization by its own officers and members.

Sec. 34-3. Hours.

No person shall solicit between the hours of 9:00 p.m. and 8:00 a.m.

Article II. Permits

Sec. 34-36. Required.

No person shall solicit for any cause whatsoever within any public road, street, alley or right-of-way in the city without a permit from the city authorizing such solicitation.

Sec. 34-37. Application.

Applications for permits under this chapter shall be filed with the city clerk upon forms to be furnished by the city. The application shall contain the following information, or in lieu thereof, a detailed statement of the reason why such information cannot be furnished:

- (1) Name, address, telephone number and 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.
- (3) The purpose for which such solicitation is to be made and the use of disposition to be made of any receipts therefrom; or property purchased if the same is to be distributed by the solicitor.
- (4) The name and address of the person who will be in direct charge of conducting the solicitation.
- (5) An outline of the method to be used in conducting the solicitation.
- (6) The time when such solicitations shall be made, giving the proposed dates for the beginning and ending of such solicitations.
- (7) The amount of any wages, fees, commissions, expenses or emoluments to be expended or paid to any persons in connection with such solicitation, together with the manner in which such wages, fees, expenses, commissions or emoluments are to be expended, to whom paid and the amount thereof.
- (8) The estimate cost of the solicitation.
- (9) Satisfactory proof that the applicant organization is tax exempt, including a copy of a current (issued within the last 90 days) IRS determination or affirmation letter recognizing the applicant organization as tax exempt.
- (10) A financial statement for the preceding fiscal year.
- (11) Such other information as may be required by the city council for it to determine the kind of character of the proposed solicitation and whether such solicitation is in the interest of, and not inimical to, the public welfare.

- (12) If information otherwise available to the city is deemed to be sufficient to make a determination pursuant to section 34-39, standards for granting, the city clerk is authorized to accept an application which does not contain all or any part of the information required under this section.
- (13) Proof of insurance with Commercial General Liability coverage on an "Occurrence Basis" with limits of liability not less than \$500,000 per occurrence and/or aggregate combined single limit, Personal Injury, Bodily Injury and Property Damage.

Sec. 34-38. Filing false application.

It shall be unlawful for any person, knowingly, to file, or cause to be filed, an application with one or more false statements.

Sec. 34-39. Standards for granting or denying.

The city may authorize the permit provided for in this article whenever it shall find the following facts to exist:

- (1) The applicant is a person or organization which is, as a matter of fact, engaged in charitable, patriotic, educational, philanthropic or religious activity, or engaged in raising funds for distribution to such persons or organizations.
- (2) The net proceeds over reasonable expenses, derived from the solicitations authorized under the permit shall be used exclusively for charitable, educational, patriotic, philanthropic or religious purposes.
- (3) None of the proceeds derived from the solicitations authorized by the permit will be divided in any manner with persons who actually make the solicitations.
- (4) The proceeds of the solicitations authorized by the permit will not be divided or in any manner shared, either directly or indirectly, with any person or organization other than the applicant for the permit, or the person or organization for whose benefit the solicitation is made.
- (5) There is compliance with the policy regarding the number and dates of solicitations as formulated from time to time by the city council.
- (6) The applicant is licensed in accordance with Public Act No. 169 of 1975, as amended (MCL 400.271 et seq.), if the provisions of such act are applicable.

Sec. 34-40. Issuance; form.

Permits issued under this chapter shall bear the name and address of the person by whom the solicitation is made, 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 city of the purpose or of the person conducting the solicitation. All permits shall be signed by the city clerk. The dates within which the permit holder may solicit shall be determined by the city council; provided,

however, that no permit shall grant the right to solicit for a longer period than one year from its date of issuance.

Sec. 34-41. Transfer; use by more than one person.

Any permit approved and issued under this chapter shall be nontransferable; provided, however, that this shall not prevent any permittee from using any number of solicitors and representatives. No permit may be used by a child less than eight years of age. All persons soliciting under a permit issued under this chapter shall carry identification in such form as may from time to time be determined by the city council.

Sec. 34-42. Issuance not endorsement by city.

No person shall represent that the granting of a permit under this chapter is an endorsement by the city of the particular organization involved, and any such representation is hereby declared to be a misrepresentation of fact and subject to the provisions for revocation of the permit as provided in section 34-43.

Sec. 34-43. Revocation.

If, upon receipt of written information or upon their own investigation, the city council has reason to believe that any officer agent or representative of a permittee under this chapter is misrepresenting facts or making untrue statements either with words or by implication, with regard to solicitations or the purposes thereof, or has made untrue statements in the application, or that in any other way the solicitations have been conducted, in violation of any part of this chapter and not in conformity with the intent and purpose of this chapter, then the city council shall immediately suspend such permit; provided, however, that before any permit is revoked, the city clerk shall cause to be mailed to the permit holder a notice that a hearing is to be had before the city council, and such notice shall be mailed or served upon the permittee personally or by certified mail, at least 24 hours before the hearing, and at such hearing the facts shall be ascertained and reported to the city council at its next meeting, and if it shall find any of the reasons above set forth for revoking the permit exist, the permit shall be revoked.

SECTION 2: Severability Clause

Should any word, phrase, sentence, paragraph, or section of this Ordinance be held invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 3: Penalty

All violations of this ordinance shall be misdemeanors and upon conviction thereof shall be punishable by a sentence of not more than ninety (90) days of confinement to jail or by a fine of not more than \$500, or both, in the court's discretion.

SECTION 4: Effective Date

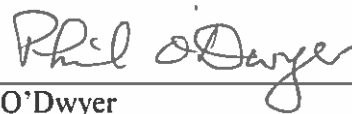
This Ordinance shall become effective 30 days following the date of adoption.

SECTION 5: Publication

The City Council directs the City Clerk to publish a summary of this ordinance in compliance with Public Act 182 of 1991, as amended, and Section 6.5 of the Berkley City Charter.

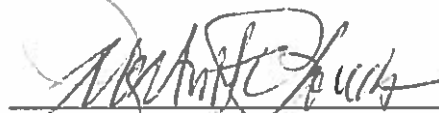
Introduced on the First Reading at the Regular City Council Meeting on Monday, August 17, 2015.

Adopted on the Second Reading at the Regular City Council Meeting on Monday, September 21, 2015.



Phil O'Dwyer
Mayor

Attest:



Phommady A. Boucher
City Clerk