

ORDINANCE

An ordinance amending Sections 44.00, 44.02, 44.04, 44.05, 44.07, 44.08, 44.09, 44.10, 44.11, 44.12, 44.14, and 44.15 of the Los Angeles Municipal Code to clarify and simplify the definition of charitable solicitations; clarify the City's ordinances regulating charitable solicitations as applied to radio and television communications and out of state organizations; simplify the procedures and requirements related to the Notice of Intention to solicit charitable contributions and the related Information Card; and clarify the requirements and licensing procedures applicable to commercial fund-raisers and paid solicitors of charitable contributions.

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS

Sec.1. Section 44.00 of the Los Angeles Municipal Code is amended to read:

SEC. 44.00. DEFINITIONS

For the purposes of this article, the following terms are defined and shall be construed as indicated here unless it is apparent from the context that they have a different meaning:

- (a) "Charitable" shall include philanthropic, social service, benevolent, patriotic, and religious, whether they are actual or purported.
- (b) "Contribution" shall include food, clothing, money, property and the loan of money or property.
- (c) "Department" shall mean the Police Department.
- (d) "Person" shall be construed as defined in Section 11.01 of this Code.
- (e) "Commercial Fund-Raiser" shall mean any person who for pecuniary compensation or consideration received solicits or purports to solicit charitable contributions on behalf of any other person. Pecuniary compensation or consideration shall include, but is not limited to, participation on a percentage basis in any funds solicited or raised. No natural person who is an officer, director, or bona fide paid employee of a charitable organization that is operating in compliance with this article shall be considered a commercial fund-raiser within the meaning of this article. Nor shall any natural person who is working under the direction and control of a commercial fund-raiser be considered a commercial fund-raiser within the meaning of this article.
- (f) "Solicitor" shall mean any person who for pecuniary compensation or consideration received solicits or purports to solicit charitable contributions but who is not licensed as a commercial fund-raiser; provided that no natural person who is an officer, director, or bona fide paid employee of a charitable organization that is operating in compliance with this article shall be considered a solicitor within the meaning of this article.

(g) "Solicitation" shall mean and include the following:

(1) Any oral or written request made, transmitted, or distributed by any means;
and

(2) Any offer to sell any service, item, or right to attend any function or participate in any activity, which offer includes reference to any actual or purported charitable purpose or charitable organization as an inducement to purchase the service, item, or right to attend.

A solicitation shall be deemed completed when made, whether or not the person making it receives a contribution or makes a sale referred to in this article. No communication between natural persons personally known to each other shall constitute a solicitation for purposes of this article. No communication made by electronic mail shall constitute a solicitation for purposes of this article unless the person making the communication is aware that the recipient of the e-mail is located in the City of Los Angeles. No information contained on any website or presented on any television or radio broadcast that is subject to regulation by the Federal Communications Commission shall constitute a solicitation for purposes of this article. Nor shall any statement that a charitable organization is nonprofit, tax-exempt, or funded or supported by charitable contributions by itself constitute a solicitation for purposes of this article. For purposes of this article, "solicitation" shall not include any raffle within the meaning of California Penal Code Section 320.5.

Sec. 2. Section 44.02 of the Los Angeles Municipal Code is amended to read:

SEC. 44.02. POWERS AND DUTIES OF THE DEPARTMENT

(a) The Department shall have the following powers:

(1) To investigate statements on:

(A) The Notice of Intention and information submitted in connection therewith; and

(B) The Report of Results of Activity and information submitted in connection therewith;

(2) To have access to and inspect and make copies of all books, records and papers, relating to any solicitation and the distribution of any contribution received therefrom, of such person by whom or on whose behalf such solicitation is made;

(3) To investigate the method of making or conducting any such solicitation and to give publicity to its findings in such a manner as the Department deems best to advise the public of the facts of such solicitation;

(4) To recall and declare void any Information Card upon receipt of additional information by the Department which renders incorrect any statement provided by the applicant which is set forth on such Information Card, provided that the incorrect statement in question is not an innocent mistake. Upon recall, the Department shall issue a new Information Card pursuant to Subsection (b) of this section. Upon request, all recalled Information Cards shall be returned to the Department within 48 hours.

(b) The Department shall have the following duties:

(1) The Department shall issue an Information Card no later than fifteen (15) days after receipt of a Notice of Intention which complies with the requirements of Section 44.04 of this article; provided that where such notice is incomplete or otherwise fails to meet the requirements of Section 44.04 of this article, the Department shall, within ten (10) days after receipt of the notice, notify the applicant in writing of the specific information needed to meet the requirements of Section 44.04 of this article. The Department shall issue an Information Card no later than fifteen (15) days after receipt of such additional information.

(2) The Department shall indicate on all Information Cards the following:

(A) That the Card is issued only as information for the public; or

(B) That the Card is an endorsement, if the Department endorses pursuant to Section 44.15 of this article;

(C) The pertinent facts of the solicitation from the Notice of Intention, including the commencement and termination dates.

SEC. 44.03. FRAUD

No person shall perpetrate deception or fraud in connection with the solicitation of contributions for charitable purposes.

Sec. 3. Section 44.04 of the Los Angeles Municipal Code is amended to read:

SEC. 44.04. NOTICE OF INTENTION

No person shall solicit or authorize any other person to solicit any charitable contribution unless at least 15 days prior to the beginning of such solicitation there shall have been filed with the Department, on a form furnished by the Department, a written Notice of Intention to solicit charitable contributions. A Notice of Intention shall be filed for each separate special event. At the option of the person filing the Notice, a Notice related to an ongoing general appeal for charitable contributions may be filed on an annual basis. The Department shall distinguish between special events and activities related to an ongoing general appeal so as to best inform the public of the costs and receipts of the various types of charitable solicitation activities undertaken by the person filing the Notice. If an annual Notice is filed, it shall include a

description of the activities planned for the year related to the general appeal of the person filing the Notice, and the person filing the Notice shall file a separate Notice of Intention for any such activity that is not included in the annual Notice. The following information shall be included with the Notice:

(a) The name of the person registering and desiring to solicit funds for charitable purposes;

(b) Whether the person registering is a natural person, partnership, corporation or association, and,

(1) If a natural person, the principal business or residence address and telephone number;

(2) If a partnership, the address and telephone number, if any, of the partnership, and the name and principal business or residence address and telephone number of each partner;

(3) If a corporation, the state of incorporation, the address and telephone number of the corporate headquarters, the mailing address, location, telephone number, and name of the person in charge of the Los Angeles or other local office, if any, and the name and title of each officer and director or trustee;

(4) If an association, the principal business address and telephone number of the association, if any, the name and principal business or residence address and telephone number of each member, unless there are more than ten members, in which case the association shall provide the name, title, and principal business or residence address and telephone number of each officer and director or trustee, and if the association is part of a multi-state organization, the business address and location of its Los Angeles or other local office;

(c) The purpose of the solicitation and use of the contributions to be solicited;

(d) The commencement and termination dates of the solicitation;

(e) The type of solicitation activity and how it will be conducted;

(f) An estimate of the total cost of the solicitation (such estimate may be based on the most recent comparable solicitation activity, if any, unless the person filing the Notice expects the cost of the proposed solicitation to be substantially different);

(g) The names of any officer, director, trustee, partner, or any current agent or employee engaging in solicitation of funds who has been convicted of a felony or a misdemeanor involving moral turpitude within the seven (7) years, and the nature of the offense, the State where the conviction occurred, and the year of such conviction;

(h) A statement signed under penalty of perjury by persons authorized by the person filing the Notice that the signers of the Notice of Intention have read and are familiar with the provisions of this article.

Sec. 4. Section 44.05 of the Los Angeles Municipal Code is amended to read:

SEC. 44.05. OUT OF STATE ORGANIZATIONS

(a) The Notice of Intention described in Section 44.04 may be filed pursuant to this section if all of the following conditions are met:

(1) The person filing the Notice is based outside the State of California;

(2) The person filing the Notice is registered with the State of California as a charitable trust or charitable organization throughout the period covered by the Notice;

(3) The Notice pertains to activities related to an ongoing general appeal for charitable contributions; and

(4) The Notice contains all of the following information:

(A) The name, address, and telephone number of the person filing the Notice;

(B) Whether the person is a corporation and the date of organization;

(C) The person's employer identification number and corporation or organization number;

(D) The dates covered by the Notice; and

(E) The types of solicitation activities anticipated during the period covered by the Notice.

(b) Sections 44.09 and 44.10 shall not apply to persons filing a Notice of Intention pursuant to this section.

SEC. 44.06. ACCOUNTING SYSTEM

No person shall solicit charitable contributions unless a system of accounting is maintained whereby all transactions are entered upon the books or records of the person, either on the cash or accrual basis, according to established and customary accounting principles.

Sec. 5. Section 44.07 of the Los Angeles Municipal Code is amended to read:

SEC. 44.07. COIN CONTAINERS

No person shall solicit any charitable contributions utilizing coin containers or receptacles without displaying an Information Card or an authentic reproduction thereof.

Sec. 6. Section 44.08 of the Los Angeles Municipal Code is amended to read:

SEC. 44.08. SOLICITATIONS ON BEHALF OF OTHER PERSONS

(a) No Person shall conduct a solicitation for charitable contributions on behalf of another person without written authorization from the person on whose behalf the solicitation is made.

(b) The written authorization required by Subsection (a) shall be provided to the Department with the Notice of Intention filed by the person conducting the solicitation.

(c) Subsections (a) and (b) shall not apply where the person conducting the solicitation is an officer, director, bona fide employee, or bona fide member of a charitable organization that is operating in compliance with this article.

Sec. 7. Section 44.09 of the Los Angeles Municipal Code is amended to read:

SEC. 44.09. SOLICITATION – INFORMATION CARD

(a) No person shall solicit any charitable contribution unless an Information Card has been issued pursuant to Section 44.02 of this article.

(b) No person shall solicit in person any charitable contribution without personal possession of the original or an authentic reproduction of the Information Card. The original or an authentic reproduction of the Information Card shall be conspicuously displayed at the site of special events conducted for the purpose of obtaining funds for charitable purposes.

(c) No person shall solicit any charitable contribution by means of any written or printed material that is published, mailed, delivered, or otherwise distributed unless such material includes the information contained in the Information Card.

(d) Any person soliciting charitable contributions by radio, television, telephone, telegraph, or e-mail, shall provide the information contained on the Information Card upon the request of any person being solicited.

(e) Any person soliciting charitable contributions shall present the original or an authentic reproduction of the Information Card upon the request of any person being solicited.

Sec. 8. Section 44.10 of the Los Angeles Municipal Code is amended to read:

SEC. 44.10. REPORT OF RESULTS OF ACTIVITY

Every person soliciting charitable contributions shall file with the Department within 30 days after the termination date of the solicitation a Report of Results of Activity. For persons filing such Report based on an annual Notice of Intention, the termination date shall be one year after the initial date for which the Notice of Intention was filed. The Report shall detail all receipts, expenses and distributions of proceeds. Such Report shall be made on a form provided by the Department and signed by two officers, if practicable, or other natural persons authorized by the person filing the Report.

It shall be unlawful to expend charitable funds raised by public solicitation for any purpose other than those specified on the Information Card, except that where no purpose specified on the Information Card any longer exists, the person may expend such funds for a similar purpose.

Sec. 9. Section 44.11 of the Los Angeles Municipal Code is amended to read:

SEC. 44.11. RECEIPTS FOR CONTRIBUTIONS

A receipt for the amount donated shall be given to each contributor requesting one. Each receipt shall be signed by the person making the solicitation and shall identify the person on whose behalf the contribution was received.

Sec. 10. Section 44.12 of the Los Angeles Municipal Code is amended to read:

SEC. 44.12. EXEMPTIONS

The provisions of this article, except Sections 44.00 and 44.03, shall not be applicable to any of the following:

(a) Any solicitation made upon premises owned or occupied by the person upon whose behalf the solicitation is made;

(b) Any solicitation for the relief of any natural person specified by name at the time of the solicitation where the person making the solicitation represents that the entire amount collected, without any reduction, shall be turned over to the named beneficiary, and the entire amount collected is in fact turned over to the named beneficiary;

(c) Any solicitation by an organization soliciting contributions solely from its own members at the time of the solicitation.

SEC. 44.13. HOURS OF SOLICITATION

(a) No person shall solicit any charitable contribution door-to-door between the hours of 8:00 p.m. and 8:00 a.m.

(b) No child under the age of 10 years shall solicit any charitable contribution unless accompanied by a responsible person who is 18 years of age or older and who shall at all times keep such child within the range of his or her sight and hearing.

(c) No child under the age of 16 years shall solicit any charitable contributions between the time of sunset and 9:00 a.m.

Sec. 11. Section 44.14 of the Los Angeles Municipal Code is amended to read:

SEC. 44.14. COMMERCIAL FUND – RAISERS AND SOLICITORS

(a) Commercial Fund-Raisers.

No commercial fund-raiser shall solicit charitable contributions for any actual or purported charitable purpose without a license issued by the Department. A commercial fund-raiser shall not solicit charitable contributions for any person without first notifying the Department. A commercial fund-raiser shall notify the Department in writing of all contracts and working agreements with each charitable organization with which the commercial fund-raiser is associated.

(b) Application. Applicants shall file for a commercial fund-raiser’s license on forms furnished by the Department.

(c) Investigation. The Department shall investigate the applicant and verify:

(1) That the applicant has not been convicted of a felony or a misdemeanor involving moral turpitude within the past seven (7) years; and

(2) That all statements in the application are true.

(d) Issuance. The Department shall issue to the applicant a license to solicit as a commercial fund-raiser when all of the foregoing conditions are met. If all the foregoing conditions have not been met, the Department shall deny a license to the applicant, subject to the following conditions:

(1) The Department shall notify the applicant in writing, no later than 15 days after receipt of the complete application of the reasons for denial of a license;

(2) The applicant may appeal the denial of a license by written request filed with the Board of Police Commissioners within 10 days after notification of the denial;

(3) The Board of Police Commissioners shall schedule a hearing within 30 days after receipt of the request for appeal and shall send notice of the time and place of the hearing to the applicant by certified mail no later than 10 days prior to the date set for the hearing;

(4) The applicant and the Department may submit evidence relative to their respective positions in writing prior to the hearing or in writing or orally at the hearing and the burden of proof at such hearing shall be upon the Department; and

(5) The hearing shall be held before the Board of Police Commissioners, which shall notify the applicant in writing of its decision within five (5) days after completion of the hearing process. The Department shall immediately issue the license upon a finding by the Board of Police Commissioners that the Department has failed to sustain its burden of proof at such hearing. The Department shall not issue a license upon a finding by the Board of Police Commissioners that the Department has met its burden of proof at such hearing. Upon a denial of a license, the Department may seek an injunction to prohibit any act in violation of this section.

(e) Revocation. A commercial fund-raiser's license may be revoked if the Department finds that any act or omission of such commercial fund-raiser or his or her agents or employees in making any solicitation or in the conduct of the business of a commercial fund-raiser is illegal or fraudulent. The Department must revoke a commercial fund-raiser's license if it finds the existence of any grounds upon which the issuance of such license would be denied under this section. No revocation of a commercial fund-raiser's license shall be effective except upon notice and an opportunity to be heard as provided in Subsection (d) of this section.

(f) Expiration. Each commercial fund-raiser's license shall expire 12 months after issuance.

(g) Funds. A commercial fund-raiser shall not commingle charitable contributions with his or her funds or property.

(h) Solicitors.

(1) It shall be unlawful for any commercial fund-raiser to cause or permit any person for compensation to solicit or receive any charitable contribution unless such person shall be licensed as a solicitor by the Department. Each solicitor shall be under the direction and control of a licensed commercial fund-raiser.

(2) Except as provided in Subsections (a) through (h) of this section, no person shall for compensation solicit charitable contributions for or on behalf of any other person without a license issued by the Department.

(3) Each initial application shall be accompanied by the applicant's photograph and fingerprints, on forms prescribed by the Department, and by a fingerprint processing fee payable to the Department. The Department is authorized to adjust the amount of its

fee for the processing of fingerprints so that it shall be equal in amount to the State of California fee to the City of Los Angeles for the processing of fingerprints. The fingerprint processing fee shall not exceed the amount charged to the City by the State.

(4) A solicitor's license shall be issued upon verification by the Department that the statements in the application are true and that the applicant has not been convicted of any felony or misdemeanor involving moral turpitude within the past seven years.

(5) A solicitor must notify the Department in writing of any change of address and of any termination or change of employment.

(6) A solicitor's license may be revoked if the Department finds that any act or omission of such solicitor in making any solicitation is illegal or fraudulent. The Department must revoke a solicitor's license if it finds the existence of any grounds upon which the issuance of such license would be denied under this subsection. No revocation of a solicitor's license shall be effective except upon notice and an opportunity to be heard as provided in Subsection (d) of this section.

(7) Consideration of a solicitor's license application and issuance or denial of a license shall be subject to the time periods and procedures set forth in Subsection (d) of this section. Each solicitor's license shall expire 12 months after issuance.

Sec. 12. Section 44.15 of the Los Angeles Municipal Code is amended to read:

SEC. 44.15. ENDORSEMENT

The Department shall have the following powers:

(a) To endorse, upon request, those charitable organizations which submit to investigation and meet the following requirements:

(1) That a direct service program is provided to the community by the organization;

(2) That the work for which such organization was created has been performed;

(3) That a board of directors or trustees exercises full control and direction of the organization;

(4) That the members of the board of directors or trustees are not compensated for their services;

(5) That the compensated administrative head of the organization is not a member of the board of directors or trustees;

(6) That no monies of the organization are on loan directly or indirectly to any officer, director, trustee or employee thereof;

(7) That the organization has not paid out more than 20 percent of any amount collected by solicitation for expenses of solicitation and has not diverted funds donated to it from any source to purposes other than those for which they were donated;

(8) That for the period of one year prior to the endorsement the organization has kept its records in accordance with generally accepted accounting principles and standards for non-profit organizations;

(9) That for the period of one year prior to the endorsement the organization has not violated any law applicable to it. The Department shall issue said endorsement to any organization that complies with the aforementioned requirements. An endorsement shall be valid for one year from the date of its issuance or most recent renewal. Renewal of an endorsement may be granted upon the same conditions as an original endorsement may be issued;

(b) To refuse to endorse or revoke endorsement of an organization that does not comply with the requirements of Subsection (a) of this section, subject to the following procedure:

(1) The Department shall notify the organization in writing of the reasons for denial or revocation of endorsement.

(2) The organization may appeal the denial or revocation of endorsement by written request filed with the Board of Police Commissioners within 10 days after notification of the denial or revocation. If an appeal is filed, the Department shall withhold making a final decision until the report of the Board of Police Commissioners has been received. If an appeal is not filed within the prescribed time limit, the decision to deny or revoke endorsement shall be final.

(3) The Board of Police Commissioners shall schedule a hearing within 30 days after receipt of the appeal and shall send notice of the time and place of the hearing to the organization by certified mail no later than 10 days prior to the date set for the hearing.

(4) The organization and the Department may submit evidence relative to their respective positions in writing prior to the hearing or in writing or orally at the hearing.

(5) The hearing shall be held before the Board of Police Commissioners which shall notify the Department of its findings within 5 days after completion of the hearing process.

(6) The Department shall notify the organization of the Board's decision after receiving the findings of the Board of Police Commissioners.

(c) To convene on no less than an annual basis representatives of endorsed organizations to secure cooperation among charities in the City to the end that a comprehensive and economical plan in philanthropy is promoted;

(d) To provide advice, counsel and training opportunities to all charitable organizations in the City on the methods and procedures that lead to or help maintain endorsement.