

RESOLUTION NO. 407

WHEREAS, solicitation "roadblocks" pose a threat to the life and physical well-being of both the motoring public and to the persons conducting such roadblocks; and

WHEREAS, solicitation roadblocks impede the smooth and orderly flow of traffic to an unacceptable level; and

WHEREAS, the Town of Mount Carmel, Tennessee has a legitimate governmental interest in regulating such roadblocks:

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF MOUNT CARMEL, TENNESSEE, THAT:

Section 1. Solicitation roadblocks are restricted to such organizations that are duly filed with the Internal Revenue Service as Subchapter 501(c)3 or 501(c)4 organizations. Roadblocks will be limited to one per month, April to September, issued on a first-come first-served basis, and will be restricted to the Hammond Avenue and Main Street intersection, excluding the 11w approach. Participants are required to wear reflective vests and set up traffic cones, provided by the participants. Underage participants must have adult supervision.

Section 2. The following terms shall apply in the interpretation and application of this ordinance:

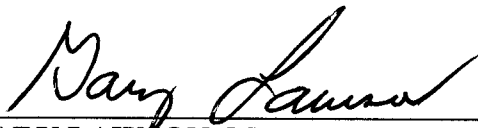
(a) "Solicitation roadblock" shall mean the solicitation by any person of money on or in the right of way of the street, road, highway, or any other public way and place generally open to, and used by, the public for travel in motor vehicles.

(b) "Street," "road," "highway," and "public way and place" shall include the paved or unpaved surface of such street, road, highway or public place, the entire width of the public right of way extending laterally there from, dividers, medians, and abutting or adjoining sidewalks or other pedestrian pathways generally open to the public for pedestrian traffic.

Section 3. Any person violating this ordinance shall be subject to punishment under the general penalty provision of the Mount Carmel Municipal Code of Ordinances.

Section 4. This resolution shall become effective from and after its final passage, the public welfare requiring it.

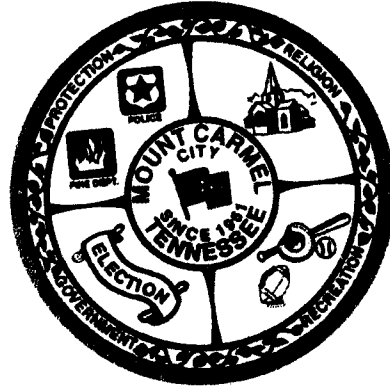
Duly passed and approved this the 22nd day of July, 2008



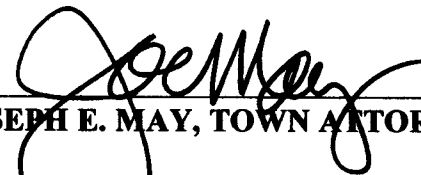
GARY LAWSON, Mayor

ATTEST:


MARIAN SANDIDGE, Recorder



APPROVED AS TO FORM:


JOSEPH E. MAY, TOWN ATTORNEY

FIRST READING	AYES	NAYS	OTHER
VICE-MAYOR EUGENE CHRISTIAN	X		
ALDERMAN WANDA DAVIDSON		X	
ALDERMAN RICHARD GABRIEL	X		
ALDERMAN TRESA MAWK		X	
ALDERMAN THOMAS WHEELER	X		
ALDERMAN CARL WOLFE		X	
MAYOR GARY LAWSON	X		
TOTALS	4	3	0

Passed first reading: July 22, 2008

Mount Carmel may end fund-raising roadblocks

JEFF BOBO,

MOUNT CARMEL — The Volunteer High School girls basketball team was approved Tuesday by the Mount Carmel Board of Mayor and Aldermen to hold a fund-raising roadblock at Main Street intersections July 19 between 7 a.m. and noon.

According to Cindy Gilliam and Mike Drain, the VHS parents who made the request, the girls need to raise \$3,500 to buy new uniforms.

It's a pretty common sight in any Hawkins County town on Saturday morning to see a school organization or some other nonprofit group holding a "roadblock" — or in other words soliciting contributions at busy intersections. But the VHS girls basketball team got their Mount Carmel roadblock approved in the nick of time.

The BMA agreed during Tuesday's meeting it will not approve any further roadblocks until the board comes up with a permanent solution for what was described Tuesday as a safety hazard and a nuisance to motorists.

That's bad news for the VHS volleyball team, which was to be on the agenda next month for a roadblock request.

The BMA agreed Tuesday to seek a recommendation from the town's Safety Committee, which has been directed to report back to the BMA next month.

Mount Carmel has an ordinance prohibiting roadblock fund-raisers, but the BMA approves variances to that ordinance for reputable charitable organizations on a regular basis. Alderman Carl Wolfe said Tuesday the board should consider not allowing roadblocks at all.

"They raise a lot of money for various clubs and do a good job, but I've had more complaints this past month and a half (about roadblocks) than I've ever had before," Wolfe told the board. "I've had a lot of people tell me you can't get out of Mount Carmel on Saturday no matter where you go, and if you don't give to every one of them they look at you like they're mad at you."

Another complaint from the public is that they're tired of being hit up for money every Saturday morning, every time they go through town, and at every intersection, Wolfe said.

Wolfe said that recently a group of youths were holding a roadblock without adult supervision, and one girl was performing cartwheels and somersaults in the roadway to help drum up donations. He said he doesn't want to see a child get hurt and then have the town sued.

Town Attorney Joe May said the organization is responsible for conducting the roadblock in a safe manner. May pointed out, however, that the town has no rules or guidelines for roadblock participants.

Establishing guidelines seemed to be the direction some board members are looking for the Safety Committee to pursue.

"I think some of the issues brought to my attention in the recent past are more indicative of the sponsors of the roadblock not properly supervising some of the youngsters participating in it," May said. "Some exuberant participants had no one there to tell them to act more adult. That could be a problem, but it doesn't create a legal liability for the town.

"The only way a person could prevail (in a lawsuit) would be if there was a known hazard and we allowed it to go on knowing that the hazard existed."

Aside from establishing guidelines for roadblock participant behavior, board members also discussed limiting the number of roadblocks to one or two per month, or even as few as 10 per year.

Drain asked the town to come up with a solution that won't prevent the school groups from being able to raise money. Without the fund-raisers, the school sports teams and school organizations wouldn't have any money to operate, Drain said.

"I agree with you that there needs to be adult supervision, and if they can't supply it, the kids don't need to be there," Drain told the board. "It's sad that the school system can't come up with the money, and it's sad that kids have to be put out to do this.

"They do everything — car washes, candy bars, and believe me one car wash and one intersection ain't getting it done. It takes a bunch of stuff all year long to get these ball teams through."

TML Risk Management Pool
Loss Control Guidelines

Public Works/Traffic Control
Charity Fundraising Roadblocks

This guideline outlines the TML Pool's recommendations regarding the municipality's exposure for charity fundraising roadblocks. According to Tennessee Code Annotated (TCA) §39-17-307(2)(d)(1), there is a built-in immunity provision for local governments involved in issuing permits for charity fundraising roadblocks. This provision holds cities harmless for any accident or occurrence that arises from these solicitations. However, the city increases its liability exposure significantly if it chooses to allow its employees and/or vehicles to be used in these solicitations.

Once the police department or other department becomes involved through providing an officer, other employee or a city vehicle at the roadblock, there is the potential of liability transferring from the soliciting organization to the city. Put another way, by having city employees and/or equipment present, the city may lose its immunity and could possibly be held liable for accidents or occurrences that arise from these solicitations. Therefore, the TML Pool recommends against law enforcement officers, other employees, and city vehicles or other equipment being used at these charity fundraising roadblocks.

To assist the city with controlling this loss exposure, the TML Pool offers the following loss control guidelines regarding the city's role on charity fundraising roadblocks:

1. Due to the immunity available through TCA §39-17-307(2)(d)(1), neither police officers, other employees nor city vehicles should be involved in participating with these roadblocks.
2. The city should institute a permit program for all charity fundraising roadblocks.
3. The city's permit application should contain a hold harmless provision to further reinforce the city's immunity.
4. The permit application should be time and intersection specific, which should be approved by the Chief of Police or other designated person within a given time frame.
5. Reflective traffic safety vests should be mandatory for all roadblock participants in or near the roadway (the city may provide these).
6. Adults should be directed to appropriately supervise all participating minors at all times.
7. A complete incident/accident report must be filed by the program supervisor following any accident or injury to a roadblock participant, or a member of the general public occurring during the charity fundraising roadblock. This documentation should include: (1) the date of accident/injury; (2) the time of day; (3) the injured person's name, address, and phone number(s); (4) the name of the injured person's parent or guardian, if a minor child; (5) the names of phone number(s) of any witnesses; and (6) a complete description of the events and circumstances surrounding the accident or injury. **Note:** Injury means bodily injury and/or property damage. These incident reports should be retained on file.

Additionally, when developing your permit program, your city may wish to limit the number of permits issued each month, as well as limit the number of participants in the roadway at any one time. A sample ordinance and a copy of TCA §39-17-307 are attached.



Any additional requirements made by federal, state, and/or local regulations which place further restrictions or guidelines upon the use or permitting of charity fundraising roadblocks must be followed.

While there may be an increased risk exposure associated with allowing charity fundraising roadblocks, much of the risk can be reduced through written (and enforced) policies, proper supervision, control, and documentation.

The TML Risk Management Pool does not represent that these recommendations identify and address all of the unsafe or hazardous conditions associated with the allowing and/or permitting of charity fundraising roadblocks, nor do we represent that implementing our recommendations is the best possible solution and that no injury or financial loss will occur if they are followed. It is our opinion that implementing the recommendations should reduce the potential for accidents and/or financial loss.

Attachments:

- 1 - Sample ordinance on charity fundraising roadblocks
- 2 - TCA §39-17-307

SAMPLE ORDINANCE FOR CHARITABLE ROADBLOCKS

ORDINANCE NO. _____

AN ORNIANCE REGULATING CHARITABLE OR RELIGEIOUS SOLICITORS SOLICITING CONTRIBUTIONS AT STREET INTERSECTIONS

WHEREAS, the Board of Mayor and Alderman has been apprised that due to the Town's lack of restrictions on allowing charitable solicitors to collect donations at various intersections of the streets within the corporate limits, complaints have arisen concerning the traffic congestion and hazards associated with said solicitations; and

WHEREAS, the Town desires to restrict the solicitations to one per month to be conducted on the date requested by the charitable or religious organization first applying or the particular month desired. One permit shall be issued per month.

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Alderman the following ordinance shall become a part of the Town of _____
Municipal Code:

SECTION 9-305. NUMBER OF PERMITS PER MONTH. Permits for charitable or religious solicitations within the Town's corporate limits shall be issued on a first to apply basis, to be conducted on the particular day of the month by the requesting charitable or religious organization. All charitable or religious solicitation permits issued shall allow no more than four solicitors from the permittee to be within the streets at any one time and all solicitations shall take place at the intersection of _____(street) and _____(street) within the Town corporate limits. Any violation of this ordinance will be subjected to a fine of not less than \$50.00 per incident.

This ordinance shall take effect immediately after passage on the third reading, the public welfare requiring it.

Passed 1st Reading _____

Passed 2nd Reading _____

Passed 3rd Reading _____

MAYOR

RECORDER

(hard copy of TCA §39-17-307 attached)

Mount Carmel limiting fund-raising roadblocks

By **JEFF BOBO**
jbobo@timesnews.net

MOUNT CARMEL — Volunteer High School's volleyball team was approved for a roadblock fund-raiser in Mount Carmel this weekend, but that leaves only two more roadblock slots open in 2008 based on the town's newly adopted policy.

By ordinance, roadblock fund-raisers are prohibited in Mount Carmel. But for years the Board of Mayor and Aldermen has granted variances to that ordinance for legitimate nonprofit organizations to conduct fund-raisers on Main Street intersections. The biggest beneficiaries of the roadblocks are school sports teams and school organizations, which have to raise their own money to get through a season.

Recently, however, board members have reported receiving numerous complaints about the roadblocks. Members of the community have objected to the frequency of charitable roadblocks, their being conducted at multiple intersections at the same time, and safety concerns such as children collecting cash without adult supervision.

In one instance, town officials received complaints about cheerleaders performing stunts in the roadway.

Last month, the BMA directed its Safety Committee to study the matter and return this month with a recommendation.

That recommendation, presented Tuesday to the BMA, was to limit the number of roadblocks permitted in a year, restrict them to Hammond Avenue, and only allow donations to be taken from three approaches to the intersection — excluding the approach from Highway 11-W.

Despite the recommendations, some board members were ready Tuesday to completely eliminate roadblocks. Aldermen Carl Wolfe and Wanda Worley-Davidson said they hadn't heard from any constituents in favor of allowing roadblocks, only constituents opposed to roadblocks.

There was also discussion regarding the town's liability by granting roadblock variances. Safety Committee Chairman Fred Arnold noted that the town wouldn't allow any employees to work in the roadway without reflective vests and cones, and neither should it allow charitable

groups to take donations from the roadway without cones and vests.

VHS volleyball coach Tina Evans attended Tuesday's BMA meeting to formally request a roadblock for her team. Last month, the BMA halted all roadblock requests until the matter was resolved.

Evans assured board members her players would be supervised by at least three adults for their July 26 roadblock, and they would be wearing appropriate attire.

Ultimately the BMA voted 4-3 in favor of allowing the roadblocks to continue but under a new set of guidelines.

There will only be six roadblocks allowed per year — one per month April to September. Roadblock variances will be granted on a first-come, first-served basis.

They will be limited to the Hammond Avenue intersection excluding the 11-W approach.

And participants are required to wear a reflective vest and set up cones, which they must provide themselves.

Aldermen who voted against allowing roadblocks to continue were Wolfe, Worley-Davidson and Tresa Mawk. Only Wolfe voted against the volleyball team roadblock.

Christian

By **STEPHEN IGO**
sigo@timesnews.net

NORTON — A W gang on the side of G ing to roll to raise m el assistance fund.

Chapter 945 of the ciation, headquarter as "The Revelators," Mountain Empire Ol fuel fund for the eld fund — powered co fund-raising efforts — help the region's fix keep warm during th

The Revelators in parking lot of the Center in Norton (loc soon-to-be Magic Ma on Aug. 9, where they journ into Kentucky MEOC headquarters

The group plans to be in Big Stone Gap al Revelators Presid

group has performe and other events in t behalf of MEOC's em

"Anybody who a cause, we'll help all "The CMA is a servi put our name out the the credit. We're in i good cause."

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