

AN ORDINANCE 100380

AMENDING CHAPTER 21 OF THE SAN ANTONIO CITY CODE TO PROHIBIT AGGRESSIVE SOLICITATION IN PUBLIC AREAS AND CERTAIN BUSINESSES; AND PROVIDING FOR A CRIMINAL FINE IN AN AMOUNT NOT TO EXCEED \$500.00 FOR VIOLATION OF THIS ORDINANCE.

WHEREAS, aggressive solicitation is disturbing and disruptive to residents and businesses and contributes to the loss of access to and enjoyment of public places and to a sense of fear, intimidation and disorder; and

WHEREAS, aggressive solicitation includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic; and

WHEREAS, the presence of individuals who solicit money from persons at or near banks, automated teller machines, public transportation facilities, and crosswalks is especially troublesome because of the enhanced fear of crime in a place that is confined, difficult to avoid, or where a person might find it necessary to wait; and

WHEREAS, this section is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation and not to limit a constitutionally protected activity;
NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Chapter 21 of the San Antonio City Code is hereby amended by the addition of Section 29 providing the following:

(A) In this section, the following definitions apply:

(1) **AGGRESSIVE MANNER** means:

(a) making any physical contact with or touching another person in the course of the solicitation without the person's consent;

- (b) following the person being solicited, if that conduct is:
 - (i) likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - (ii) reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
 - (c) continuing to solicit a person after the person has made a negative response;
 - (d) blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation;
 - (e) using obscene or abusive language or gestures toward the person being solicited;
 - (f) approaching the person being solicited in a manner that:
 - (i) is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - (ii) is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.
- (2) **AUTOMATED TELLER MACHINE** means a device, linked to a bank's account records, which is able to carry out banking transactions.
- (3) **AUTOMATED TELLER FACILITY** means the area comprised of one or more automatic teller machines, and any adjacent space that is made available to banking customers.
- (4) **BANK** includes a bank, savings bank, savings and loan association, credit union, trust company, or similar financial institution.
- (5) **CHECK CASHING BUSINESS** means a person in the business of cashing checks, drafts, or money orders for consideration.

- (6) **PUBLIC AREA** means an area to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, parking lot, alleyway, pedestrian way, or the common area of a school, hospital, apartment house, office building, transport facility, or shop.
- (7) **SOLICIT** means to request, by the spoken, written, or printed word, or by other means of communication an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.

(B) A person commits an offense if the person solicits:

- (1) in an aggressive manner in a public area;
- (2) in a bus, at a bus station or stoop, or at a facility operated by a transportation authority for passengers;
- (3) within 25 feet of:
 - (a) an automated teller facility;
 - (b) the entrance or exit of a bank; or
 - (c) the entrance or exit of a check cashing business; or
- (4) at a marked crosswalk.

(C) A culpable mental state is not required, and need not be proved, for an offense under Subsection (B) (1), (2), (3), or (4).

SECTION 2. Any person, who engages in any activity specified in Section (B) above, may be subject to prosecution for a Class C misdemeanor and a fine not to exceed \$500.00.

SECTION 3. The City Clerk is directed to promptly publish public notice of this ordinance in accordance with Section 17 of the City Charter.

SECTION 4. This ordinance shall be effective on the 5th day after publication or on approximately February 18, 2005.

PASSED AND APPROVED on this the 3rd day of February, 2005.



M A Y O R

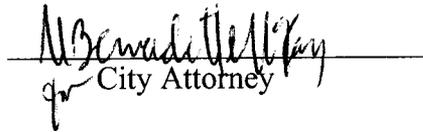
EDWARD D. GARZA

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney

Agenda Voting Results

Name: 21C.

Date: 02/03/05

Time: 03:25:09 PM

Vote Type: Multiple selection

Description: An Ordinance amending Chapter 21 of the San Antonio City Code to prohibit aggressive solicitation in public areas and certain businesses; and providing for a criminal fine in an amount not to exceed \$500.00 for violation of this ordinance.

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
JOEL WILLIAMS	DISTRICT 2	Not present			
RON H. SEGOVIA	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4	Not present			
PATTI RADLE	DISTRICT 5			x	
ENRIQUE M. BARRERA	DISTRICT 6		x		
JULIAN CASTRO	DISTRICT 7	Not present			
ART A. HALL	DISTRICT 8		x		
CARROLL SCHUBERT	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR ED GARZA	MAYOR		x		