

**THIS IS A PROPOSED DRAFT AND WILL BE REPLACED BY A FINAL, SIGNED ORDINANCE OR RESOLUTION ADOPTED BY THE CITY COUNCIL.**

**AN ORDINANCE**

**AMENDING CHAPTER 21, SECTION 21-29, OF THE CITY CODE OF SAN ANTONIO, TEXAS 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 ITS PROVISIONS.**

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**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**, Section 21-29 of the City Code 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.** Section 21-29 of the City Code of San Antonio, Texas (“City Code”) is hereby amended in its entirety to read as follows:

- (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) **CHARITABLE CONTRIBUTION METER** means a re-dedicated parking meter sanctioned by the City of San Antonio to allow charitable donations to be made by the public to support services for the homeless or some other charitable purpose;
- (6) **CHECK CASHING BUSINESS** means an entity in the business of cashing checks, drafts, or money orders for consideration.
- (7) **PARKING METER OR PAY STATION** means a location on a street, parking lot or parking garage where persons pay for parking by either cash or credit to a person or at a machine or other device designed to accept payment;
- (8) **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.
- (9) **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 stop, or at a facility operated by a transportation authority for passengers;
  - (3) within 50 feet of:
    - (a) An automated teller machine;
    - (b) An automated teller facility;
    - (c) The entrance or exit of a bank;
    - (d) The entrance or exit of a check cashing business;
    - (e) A charitable contribution meter;
    - (f) A parking meter or parking pay station on a street;
    - (g) A public parking garage or parking lot pay station;
    - (h) The entrance or exit of a restaurant or the service area of an outdoor eating establishment; or
  - (4) at a marked crosswalk.
- (C) A culpable mental state is not required, and need not be proved, for an offense under this ordinance.

**SECTION 2.** If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or sets of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected, thereby it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness, or invalidity of any other portion hereby, and all provisions of this Ordinance are declared to be severable for that purpose.

**SECTION 3.** The City Clerk of the City of San Antonio, Texas, is hereby directed to publish this Ordinance in a newspaper published in the City of San Antonio, Texas, as authorized by the City Charter of the City of San Antonio.

**SECTION 4.** This Ordinance is effective five days after publication, as provided for above, or on \_\_\_\_\_.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**M A Y O R**  
Julián Castro

**ATTEST:**

**APPROVED AS TO FORM:**

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RER  
xx/xx/11  
Item No.

Leticia M. Vacek, City Clerk

Michael D. Bernard, City Attorney

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