

AN ORDINANCE 2011-11-17-0958

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.

* * * * *

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; or
 - (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; or
 - (2) within 50 feet of the following areas where the public is considered vulnerable or where solicitation would interfere with the flow of traffic:
 - (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;
 - (i) In a bus, at a bus station or stop, or at a facility operated by a transportation authority for passengers; or
 - (j) A marked crosswalk.
- (C) A culpable mental state is not required, and need not be proved, for an offense under this ordinance.
- (D) Any person who engages in any activity specified in subsection (b), maybe subject to prosecution for a class C misdemeanor and a fine not to exceed five hundred dollars (\$500.00).

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.

RER
11/17/11
#23

SECTION 4. This Ordinance is effective ten days from the date of passage.

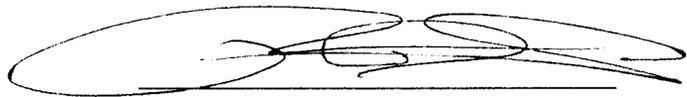
PASSED AND APPROVED this 17th day of November, 2011.

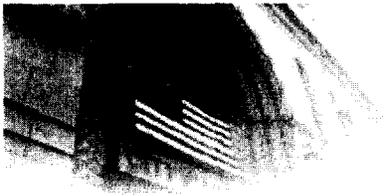

MAYOR
Julián Castro

ATTEST:

APPROVED AS TO FORM:


Leticia M. Vacek, City Clerk


Michael D. Bernard, City Attorney



Request for
COUNCIL
ACTION

City of San Antonio



Agenda Voting Results - 23

Name:	23						
Date:	11/17/2011						
Time:	10:07:12 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance amending Chapter 21, Section 29 of the City Code of San Antonio, Texas to prohibit aggressive solicitation in public areas and certain businesses. [Erik J. Walsh, Deputy City Manager; William P. McManus, Chief of Police]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				
Rey Saldaña	District 4		x				
David Medina Jr.	District 5		x			x	
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9	x					
Carlton Soules	District 10		x				x