

ARTICLE 10

AGGRESSIVE SOLICITATION ORDINANCE

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ARTICLE 10

AGGRESSIVE SOLICITATION ORDINANCE

SEC. 4-10.00 TITLE. This article shall be known as the “Aggressive Solicitation Ordinance.”

SEC. 4-10.01 FINDINGS. The City Council of the City of Hayward finds as follows:

- a. That an increase in aggressive solicitation throughout the City has become extremely disturbing and disruptive to residents and businesses, and has contributed not only to the loss of access to and enjoyment of public places, but also to an enhanced sense of fear, intimidation and disorder; and
- b. That the presence of individuals who solicit money from persons at or near banks or automated teller machines is especially threatening and dangerous. Motorists also find themselves confronted by persons who, without permission, wash their automobile windows, despite explicit indications from the drivers not to do so. Such activity often carries with it an implicit threat to both person and property. People driving or parking on City streets frequently find themselves faced with panhandlers seeking money by offering to perform “services” in exchange for cash; and
- c. The City Council finds as abusive the solicitation of people in places where they are a “captive audience” in which it is impossible or difficult for them to exercise their own right to decline to listen or to avoid solicitation from others. Such places include buses, parking lots, and structures, and indoor and outdoor dining areas. Restricting solicitation in such places will provide a balance between the rights of solicitors and the rights of persons who wish to decline or avoid such solicitations, and will help avoid or diminish the threat of violence in such unwarranted and unavoidable confrontations.
- d. That no state laws address or protect the public from the problem of intimidating or aggressive solicitation.

SEC. 4-10.02 PURPOSE. It is the intent of the City Council in enacting this ordinance to improve the quality of life and economic vitality of the City, and to protect the safety of the general public against abusive conduct of persons engaged in solicitation, by imposing reasonable manner and place restrictions on solicitation while respecting the constitutional rights of free speech for all citizens.

SEC. 4-10.03 DEFINITIONS. For purposes of this article:

- a. 'Solicit, ask, or beg' shall include using the spoken, written, or printed word, or bodily gestures, signs, or other means, with the purpose of obtaining an immediate donation of money or other thing of value, or soliciting the sale of goods or services. This article does not apply to peddling and soliciting activities governed by Chapter 8, Article 1 of this code.
- b. 'Public place' shall mean a place to which the public or a substantial group of persons has access, and includes, but is not limited to, any street, highway, sidewalk, parking lot, plaza, transportation facility, school, place of amusement, park, playground, and any doorway, entrance, hallway, lobby or other portion of any business establishment, an apartment house, or hotel, not constituting a room or apartment designed for actual residence.

SEC. 4-10.04 AGGRESSIVE SOLICITATION PROHIBITED. No person shall solicit, ask, or beg in an aggressive manner in any public place. 'Aggressive manner' shall mean any of the following:

- a. Approaching or speaking to a person, or following a person before, during, or after soliciting, asking, or begging, if that conduct is intended or is likely to cause a reasonable person to:
 - (1) Fear bodily harm to oneself or to another, damage to or loss of property, or
 - (2) Otherwise be intimidated into giving money or other thing of value.
- b. Intentionally touching or causing physical contact with another person or an occupied vehicle without that person's consent in the course of soliciting, asking, or begging;
- c. Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid contact;
- d. Using violent or threatening gestures toward a person solicited either before, during, or after soliciting, asking, or begging;
- e. Persisting in closely following or approaching a person, after the person has been solicited and informed the solicitor by words or conduct that such person does not want to be solicited or does not want to give money or any other thing of value to the solicitor; or
- f. Using profane, offensive, or abusive language which is inherently likely to provoke an immediate violent reaction, either before, during, or after solicitation.

SEC. 4-10.05 ALL SOLICITATION PROHIBITED AT SPECIFIED LOCATIONS.

- a. Banks and ATMs. No person shall solicit, ask, or beg within 30 feet of any entrance or exit of any bank, savings and loan association, credit union, or check cashing business during its business hours or within 30 feet of any automated teller machine during the time that it is available for customers' use; provided, however, that when an automated teller machine is located within an automated teller machine facility such distance shall be measured from the entrance or exit to the automated teller machine facility; further provided that no person shall solicit, ask, or beg within an automated teller machine facility where a reasonable person would or should know that he or she does not have the permission to do so from the owner or other person lawfully in possession of such facility. Nothing in this paragraph shall prohibit the lawful vending of goods and services within such areas.

(1) Definitions. For purposes of this section:

- i. 'Bank' means any member bank of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operated under the laws of the United States, and any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.
- ii. 'Savings and Loan Association' means any federal savings and loan association and any 'insured institution' as defined in Section 401 of the National Housing Act, as amended, and any federal credit union as defined in Section 2 of the Federal Credit Union Act.
- iii. 'Credit Union' means any federal credit union and any state-chartered credit union the accounts of which are insured by the Administrator of the National Credit Union Administration.
- iv. 'Check cashing business' means any person duly licensed as a check seller, bill payer, or prorated pursuant to Division 3 of the California Financial Code, commencing with section 12000.
- v. 'Automated teller machine' shall mean any electronic information processing device which accepts or dispenses cash in connection with a credit, deposit, or convenience account.
- vi. 'Automated teller machine facility' means the area comprised of one or more automated teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

- (2) Exemptions. The provisions of subsection (a) of this section shall not apply to any unenclosed automated teller machine located within any building, structure, or space whose primary purpose of function is unrelated to banking activities, including but not limited to supermarkets, airports, and school buildings, provided that such automated teller machine be available for use only during the regular hours of operation of the building, structure, or space in which such machine is located.

b. Motor Vehicles and Parking Lots.

- (1) Motor Vehicles. No person shall approach an operator or occupant of a motor vehicle for the purpose of soliciting, asking, or begging, while such vehicle is located in a public place.
- (2) Parking Lots. No person shall solicit, ask, or beg in any parking lot or parking structure any time after dark. ‘After dark’ means any time for one-half hour after sunset to one-half hour before sunrise.
- (3) Exemptions. Subsection (b) of this section shall not apply to any of the following:
 - i. Solicitations related to business which is being conducted on the subject premises by the owner or lawful tenants;
 - ii. Solicitations related to the lawful towing of a vehicle; or
 - iii. Solicitations related to emergency repairs requested by the operator or other occupant of a vehicle.

c. Public Transportation Vehicles.

- (1) ‘Public transportation vehicle’ shall mean any vehicle, including a trailer bus, designed, used, or maintained for carrying 10 or more persons, including the driver; or a passenger vehicle designed for carrying fewer than 10 persons, including the driver, and used to carry passengers for hire.
- (2) Any person who solicits, asks, or begs in any public transportation vehicle is guilty of a violation of this section.

SEC. 4-10.06 PENALTY. A violation of this article is punishable as an infraction; any person who violates any section of this article three times within a six-month period may be charged as a misdemeanor, at the discretion of the District Attorney.

SEC. 4-10.07 NON-EXCLUSIVITY. Nothing in this article shall limit or preclude

the enforcement of other applicable laws.