

 **SEC. 41.59. PROHIBITION AGAINST CERTAIN FORMS OF AGGRESSIVE SOLICITATION.**

(Amended by Ord. No. 173,705, Eff. 1/27/01)

(a) **Definitions.** For purposes of this section:

(1) **“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.

(2) **“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 and other portion of any business establishment, an apartment house or hotel not constituting a room or apartment designed for actual residence.

(b) **Aggressive Solicitation prohibited.**

(1) No person shall solicit, ask or beg in an aggressive manner in any public place.

(2) **“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

(i) fear bodily harm to oneself or to another, damage to or loss of property, or

(ii) 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 physical 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 solicited 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.

(c) **All solicitation prohibited at specified locations.**

(1) **Banks and ATMs.** No person shall solicit, ask or beg within 15 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 15 feet of any automated teller machine during the time 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 of the automated teller machine facility. Provided further 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 be construed to prohibit the lawful vending of goods and services within such areas.

(A) **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 prorater 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**” shall mean 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.

(B) **Exemptions.** The provisions of Subdivision (c)(1) shall not apply to any unenclosed automated teller machine located within any building, structure or space whose primary purpose or function is unrelated to banking activities, including but not limited to supermarkets, airports and school buildings, provided that such automated teller machine shall be available for use only

during the regular hours of operation of the building, structure or space in which such machine is located.

(2) **Parking lots.** (Amended by Ord. No. 182,813, Eff. 12/10/13.)

(A) **Parking lots.** No person shall solicit, ask or beg in any public parking lot or structure any time after dark. “**After dark**” means any time from one-half hour after sunset to one-half hour before sunrise.

(B) **Exemptions.** Subdivision (c)(2) shall not apply to any of the following:

(i) to solicitations related to business which is being conducted on the subject premises by the owner or lawful tenants;

(ii) to solicitations related to the lawful towing of a vehicle; or

(iii) to solicitations related to emergency repairs requested by the operator or other occupant of a vehicle.

(3) **Public transportation vehicles.**

(A) “**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.

(B) Any person who solicits, asks or begs in any public transportation vehicle is guilty of a violation of this section.

(d) **Penalty.** A violation of this section is punishable as a misdemeanor or infraction, chargeable at the City Attorney's discretion.

(e) **Severability.** The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

(f) **Non-exclusivity.** Nothing in this chapter shall limit or preclude the enforcement of other applicable laws.