



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ORD-33

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September 20, 2011

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by adding Chapter 9.35 relating to aggressive solicitation read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION:


Pursuant to your request, this ordinance has been prepared and is submitted for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By 
GARY J. ANDERSON
Deputy City Attorney

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY ADDING CHAPTER 9.35,
RELATING TO AGGRESSIVE SOLICITATION

WHEREAS, the City of Long Beach (the "City") is a municipal corporation
and Charter City duly organized and existing under its Charter (the "Charter") and the
Constitution of the State of California; and

WHEREAS, 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 certain 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; and

WHEREAS, the City Council finds 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

WHEREAS, aggressive solicitation usually includes approaching or
following pedestrians, the use of abusive language, unwanted physical contact, or the
intentional blocking of pedestrian and vehicular traffic. The City Council further finds 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 at traffic intersections despite explicit indications by 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 solicitors seeking money

1 by offering to perform "services" such as opening car doors or locating parking spaces;
2 and

3 WHEREAS, the City Council further finds as abusive the solicitation of
4 people in places where they are a "captive audience" in which it is impossible or difficult
5 for them to exercise their own right to decline to listen to or to avoid solicitation from
6 others. Such places include buses, parking lots and structures, and outdoor dining
7 areas. Restricting solicitation in such places will provide a balance between the rights of
8 solicitors and the rights of persons who wish to decline or avoid such solicitations, and
9 will help avoid or diminish the threat of violence in such unwarranted and unavoidable
10 confrontations; and

11 WHEREAS, this law is timely and appropriate because current laws and
12 City regulations are insufficient to address the aforementioned problems. The restrictions
13 contained herein are neither overbroad nor vague and are narrowly tailored to serve a
14 substantial governmental interest. Furthermore, in enacting this legislation, the City
15 Council recognizes the availability of community service and other sentencing
16 alternatives, which may be appropriate remedies for violations of this law. The goal of
17 this law is to protect citizens from the fear and intimidation accompanying certain kinds of
18 solicitation that have become an unwelcome and overwhelming presence in the City; and

19 WHEREAS, the City Council now desires to amend the Long Beach
20 Municipal Code by adding Chapter 9.35;

21
22 NOW, THEREFORE, the City Council of the City of Long Beach ordains
23 as follows:

24
25 Section 1. The Long Beach Municipal Code is amended by adding
26 Chapter 9.35 to read as follows:

27 ///

28 ///

Chapter 9.35
Aggressive Solicitation

9.35.010 Aggressive Solicitation Prohibited.

A. It shall be unlawful for any person to solicit by threatening, harassing, intimidating or aggressively coercing another person on a public street or sidewalk or any place open to the general public. This Chapter does not regulate solicitation on private property.

B. "Solicitation" means any verbal request, or any non-verbal request made with a sign, by a person seeking an immediate donation of money, food, cigarettes or items of value. Purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation, is a donation for purposes of this Chapter.

C. "Solicit" means to be engaged in the act of solicitation.

D. For purposes of this Section, a person aggressively coerces, threatens, harasses or intimidates another person when:

1. The solicitor's conduct would cause a reasonable person in the position of the solicitee to fear for his or her safety; or

2. The solicitor intentionally blocks the path of the solicitee; or

3. The solicitor persists in following the solicitee closely, and continues to demand money or other things of value after the solicitee has rejected the solicitation by words or conduct.

E. For purposes of this Section, the following facts, among others, are relevant in deciding whether a reasonable person would have cause to fear for his or her safety:

1. The solicitor makes physical contact with the solicitee

1 or the solicitor uses verbally abusive language;

2 2. The proximity of the solicitor to the solicitee; or

3 3. The duration of the solicitation; or the solicitor makes
4 threatening gestures or other threatening conduct, including closely
5 following the solicitee.

6
7 9.35.020 Prohibited Locations.

8 A. It shall be unlawful for any person to solicit another person
9 who is in or at any of the following locations:

10 1. In a public transportation bus or public transportation
11 bus stop;

12 2. Within twenty feet (20') of an automated teller
13 machine that is adjacent to a public sidewalk or street;

14 a. "automated teller machine" shall mean any
15 electronic information processing device which accepts or
16 dispenses cash in connection with a credit, deposit or convenience
17 account.

18 3. In a vehicle traveling on a public street;

19 4. In a City-owned parking structure or surface lot;

20 5. Within twenty feet (20') of any freeway entrance or
21 exit.

22 6. In the outdoor dining area of a restaurant, café or similar
23 establishment which serves food or drinks for immediate consumption.

24
25 9.35.030 Exception.

26 The prohibitions listed in Section 9.35.020 shall not apply to
27 solicitations related to business which is being conducted on the subject
28 premises or location by the owner or responsible party.

1 9.35.040 Penalty.

2 Violation of, or failure to comply with, any provision of this Chapter
3 9.35 constitutes a criminal offense punishable as an infraction for the first
4 offense, and a misdemeanor for any subsequent offense committed within
5 a twelve-month (12-month) period, with criminal penalties set forth in
6 Chapter 1.32 of this Code.

7
8 Section 2. The City Clerk shall certify to the passage of this
9 ordinance by the City Council and cause it to be posted in three (3) conspicuous
10 places in the City of Long Beach, and it shall take effect on the thirty-first (31st)
11 day after it is approved by the Mayor.

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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 2011, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____

(Date)

Mayor

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