

ORDINANCE NO. 1305

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUSTIN, CALIFORNIA, ADDING CHAPTER 10 TO ARTICLE 5 OF THE TUSTIN CITY CODE REGARDING REGULATION OF CHARITABLE AND COMMERCIAL SOLICITATIONS

The City Council of the City of Tustin, California, does hereby ordain as follows:

SECTION 1. Chapter 10 is hereby added to Article 5 of the Tustin City Code regarding regulation of charitable and commercial solicitations, which shall read as follows:

CHAPTER 10

CHARITABLE AND COMMERCIAL SOLICITATIONS

CHAPTER INDEX

- 5910 Purpose.
- 5911 Definitions.
- 5912 Compliance with state law.
- 5913 Manner of Solicitation – Prohibitions.
- 5914 Receipts.
- 5915 Violation – Penalty.

5910 PURPOSE

The purpose of this chapter is to protect and promote the public health, safety, and welfare by imposing content-neutral reasonable time, place and manner restrictions on door-to-door charitable and commercial solicitation in residential areas of the city. The City Council finds that such regulations are needed to protect residents in their homes from undue annoyance, such as intimidating and abusive solicitors and intrusions upon the hours of rest, and to prevent crime by discouraging potential or convicted criminals from posing as solicitors.

5911 DEFINITIONS

As used in this chapter, the following terms shall have meanings as set forth below.

"Charitable purpose" means for the purpose of any nonprofit organization, including patriotic, philanthropic, social services, welfare, benevolent, educational, religious, civil, or fraternal, either actual or purported.

“Commercial purpose” means for the purpose of any person, as identified in this section, organized or devoted to selling goods, services, real property, or information for profit.

“Contribution” means the giving of anything of value, including money, information (through canvassing and polling), property, or any type of financial assistance, or the pledging of anything of value, including money, property, or other type of financial assistance, or the purchasing or offering to purchase anything of value, including, but not limited to goods, services, books, real property, pamphlets, tickets, or subscriptions to publications.

“Person” means any individual, partnership, corporation, or association, including any firm, company, society, organization, church, synagogue, temple, congregation, assembly, or league, and shall include any director, officer, trustee, receiver, assignee, agent, or other similar representative thereof.

“Solicit” and “solicitation” means the request for any contribution for a charitable or commercial purpose as defined in this section, or the request for a signature, conducted door-to-door at residences. A “solicitation” shall be complete when the request is made, whether or not the person making the request receives any contribution.

5912 COMPLIANCE WITH STATE LAW

Prior to and while engaging in solicitation in any residential areas of the city, every person shall fully comply with all applicable state laws, including the provisions of the California Charitable Disclosure Law as set forth in California Business and Professions Code at Section 17510 et seq., and health and safety laws, as amended from time to time.

5913 MANNER OF SOLICITATION - PROHIBITIONS

No person shall solicit in any residential areas of the city:

- A. Between the hours of seven p.m. and eight a.m., except by prior appointment;
- B. At any house, apartment, or other dwelling to which is affixed a sign indicating “NO SOLICITORS” or similar indication that no solicitation contact is desired by the occupants thereof;
- C. At any house, apartment, or other dwelling within a homeowners’ association that maintains private streets, where:
 1. The homeowners’ association has posted on each entry way to the subdivision a notice in substantially the following form:

Solicitation or Peddling at any house, apartment, or dwelling unit within the area on the below map is prohibited and subject to criminal prosecution and a fine of up to \$1,000.

2. A map depicting the area within the homeowners' association is attached to the notice; and
 3. The homeowners' association has requested in writing that the city extend the provisions of this chapter upon the homeowners' association's property;
- D. By using profane or abusive language or making verbal threats, either during the solicitation or following the a refusal;
- E. By stepping onto or over the threshold of a doorway, unless invited to do so by the occupant;
- F. By placing hands, legs, or any portion of the solicitor's body in the doorway so that it reasonably appears that the door may not be closed, unless allowed to do so by the occupant;
- G. By refusing to immediately leave the solicited premises when asked to do so by any occupant; and
- H. By knowingly making false statements or misrepresentations about the purpose of the solicitation.

5914 RECEIPTS

Any person receiving money or anything of value in excess of five dollars from any contributor by means of a solicitation shall upon request give such contributor a written receipt showing the name and address of the solicitor, the date, and the amount received.

5915 VIOLATION – PENALTY

Any solicitation in violation of this chapter shall constitute a misdemeanor and shall be subject to punishment in accordance with state law.

SECTION 2. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason determined to be invalid or unconstitutional by the decision of any

court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Tustin hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

PASSED AND ADOPTED by the City Council of the City of Tustin, at a regular meeting on the 3rd day of October, 2005.



LOU BONE
Mayor



PAMELA STOKER
City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF TUSTIN)

PAMELA STOKER, City Clerk and ex-officio Clerk of the City Council of the City of Tustin, California, does hereby certify that the whole number of the members of the City Council of the City of Tustin is 5; that the above and foregoing Ordinance No. 1305 was duly and regularly introduced at a regular meeting of the Tustin City Council, held on the 19th day of September, 2005 and was given its second reading, passed, and adopted at a regular meeting of the City Council held on the 3rd day of October, 2005 by the following vote:

COUNCILMEMBER AYES:	<u>BONE, DAVERT, AMANTE, HAGEN, KAWASHIMA</u>	(5)
COUNCILMEMBER NOES:	<u>NONE</u>	(0)
COUNCILMEMBER ABSTAINED:	<u>NONE</u>	(0)
COUNCILMEMBER ABSENT:	<u>NONE</u>	(0)



PAMELA STOKER
CITY CLERK

CHAPTER 10 CHARITABLE AND COMMERCIAL SOLICITATIONS

5910 PURPOSE

The purpose of this chapter is to protect and promote the public health, safety, and welfare by imposing content-neutral reasonable time, place and manner restrictions on door-to-door charitable and commercial solicitation in residential areas of the city. The City Council finds that such regulations are needed to protect residents in their homes from undue annoyance, such as intimidating and abusive solicitors and intrusions upon the hours of rest, and to prevent crime by discouraging potential or convicted criminals from posing as solicitors.

(Ord. No. 1305, § 1, 10-3-05)

5911 DEFINITIONS

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"Charitable purpose" means for the purpose of any nonprofit organization, including patriotic, philanthropic, social services, welfare, benevolent, educational, religious, civil, or fraternal, either actual or purported.

"Commercial purpose" means for the purpose of any person, as identified in this section, organized or devoted to selling goods, services, real property, or information for profit.

"Contribution" means the giving of anything of value, including money, information (through canvassing and polling), property, or any type of financial assistance, or the pledging of anything of value, including money, property, or other type of financial assistance, or the purchasing or offering to purchase anything of value, including, but not limited to goods, services, books, real property, pamphlets, tickets, or subscriptions to publications.

"Person" means any individual, partnership, corporation, or association, including any firm, company, society, organization, church, synagogue, temple, congregation, assembly, or league, and shall include any director, officer, trustee, receiver, assignee, agent, or other similar representative thereof.

"Solicit" and *"solicitation"* means the request for any contribution for a charitable or commercial purpose as defined in this section, or the request for a signature, conducted door-to-door at residences. A "solicitation" shall be complete when the request is made, whether or not the person making the request receives any contribution.

(Ord. No. 1305, § 1, 10-3-05)

5912 COMPLIANCE WITH STATE LAW

Prior to and while engaging in solicitation in any residential areas of the city, every person shall fully comply with all applicable state laws, including the provisions of the California Charitable Disclosure Law as set forth in California Business and Professions Code at Section 17510 et seq., and health and safety laws, as amended from time to time.

(Ord. No. 1305, § 1, 10-3-05)

5913 MANNER OF SOLICITATION--PROHIBITIONS

No person shall solicit in any residential areas of the city:

- A. Between the hours of 7:00 p.m. and 8:00 a.m., except by prior appointment;
- B. At any house, apartment, or other dwelling to which is affixed a sign indicating "NO SOLICITORS" or similar indication that no solicitation contact is desired by the occupants thereof;
- C. At any house, apartment, or other dwelling within a homeowners' association that maintains private streets, where:
 1. The homeowners' association has posted on each entry way to the subdivision a notice in substantially the following form:

Solicitation or Peddling at any house, apartment, or dwelling unit within the area on the below map is prohibited and subject to criminal prosecution and a fine of up to one thousand dollars (\$1,000.00).
 2. A map depicting the area within the homeowners' association is attached to the notice; and
 3. The homeowners' association has requested in writing that the city extend the provisions of this chapter upon the homeowners' association's property;
- D. By using profane or abusive language or making verbal threats, either during the solicitation or following the a refusal;
- E. By stepping onto or over the threshold of a doorway, unless invited to do so by the occupant;
- F. By placing hands, legs, or any portion of the solicitor's body in the doorway so that it reasonably appears that the door may not be closed, unless allowed to do so by the occupant;
- G. By refusing to immediately leave the solicited premises when asked to do so by any occupant; and
- H. By knowingly making false statements or misrepresentations about the purpose of the solicitation.

(Ord. No. 1305, § 1, 10-3-05)

5914 RECEIPTS

Any person receiving money or anything of value in excess of five dollars (\$5.00) from any contributor by means of a solicitation shall upon request give such contributor a written receipt showing the name and address of the solicitor, the date, and the amount received.

(Ord. No. 1305, § 1, 10-3-05)

5915 VIOLATION--PENALTY

Any solicitation in violation of this chapter shall constitute a misdemeanor and shall be subject to punishment in accordance with state law.

(Ord. No. 1305, § 1, 10-3-05)

CHAPTER 11 PROHIBITION AGAINST CERTAIN FORMS OF AGGRESSIVE SOLICITATION

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5930 AGGRESSIVE SOLICITATION PROHIBITED

5935 ALL SOLICITATION PROHIBITED AT SPECIFIED LOCATIONS

5940 PENALTY

Chapter 11 PROHIBITION AGAINST CERTAIN FORMS OF AGGRESSIVE SOLICITATION

5920 PURPOSE AND INTENT

This Chapter is intended to protect citizens from the fear and intimidation accompanying aggressive solicitation and all solicitation in certain confined areas. It is not the intent of this Chapter to limit constitutionally protected activity.

Aggressive solicitation may include approaching or following pedestrians, repetitive soliciting despite refusals, use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking, of pedestrian and vehicular traffic.

(Ord. No. 1328, Sec. 1, 2-5-07)

5925 DEFINITIONS

A. Definitions identified and defined in subsection B, whenever used in the title, shall be construed as defined therein unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly ascribed to the use of such words or phrases.

B. In construing the provisions of this Chapter, the following definitions shall apply:

"After dark" means any time from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise.

"Aggressive manner" shall mean any of the following:

1. 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
 - a. fear bodily harm to oneself or to another, damage to or loss of property, or
 - b. otherwise be intimidated into giving money or other thing of value;
2. 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;
3. Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle, by any means, or the blocking or interfering with pedestrian or vehicular access to any building, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact or to gain entrance to a building;
4. Using violent or threatening gestures toward a person solicited either before, during, or after soliciting, asking, or begging;
5. 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
6. Using profane, offensive or abusive language which is inherently likely to

provoke an immediate violent reaction, either before, during, or after solicitation.

"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.

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

"Automated teller machine facility" shall mean the area comprised of one (1) or more automated teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

"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.

"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, as may be amended from time to time.

"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.

"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, as may be amended from time to time.

"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.

(Ord. No. 1328, Sec. 1, 2-5-07)

5930 AGGRESSIVE SOLICITATION PROHIBITED

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

(Ord. No. 1328, Sec. 1, 2-5-07)

5935 ALL SOLICITATION PROHIBITED AT SPECIFIED LOCATIONS

A. *Banks and ATMs.* No person shall solicit, ask or beg within fifteen (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 fifteen (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.

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 any public place.

2. *Parking lots.* No person shall solicit, ask or beg in any public parking lot or structure any time after dark. This prohibition shall not apply to any of the following:

- a. to solicitations related to business which is being conducted on the subject premises by the owner or lawful tenants;
- b. to solicitations related to the lawful towing of a vehicle; or
- c. to 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 ten (10) or more persons, including the driver; or a passenger vehicle designed for carrying fewer than ten (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.

D. *Restroom.* No person shall solicit, ask, or beg in any public restroom or within fifteen (15) feet of the entrance to a public restroom.

(Ord. No. 1328, Sec. 1, 2-5-07)

5940 PENALTY

Each act of solicitation prohibited by this section shall constitute a separate violation of this Chapter. A violation of this Chapter is punishable as a misdemeanor.

(Ord. No. 1328, Sec. 1, 2-5-07)

CHAPTER 1 MINORS

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6100 APPLICABILITY

6101 HARMFUL CONDITIONS PROHIBITED

6102 CURFEW--PERSONS UNDER EIGHTEEN YEARS OF AGE

6103 INDECENT PUBLICATIONS

6104 PROHIBITION OF LOITERING SO AS TO OBSTRUCT PASSAGE

CHAPTER 8 SOLICITATION OF OCCUPANTS OF MOTOR VEHICLES WITHIN THE PUBLIC RIGHT-OF-WAY

5800 PURPOSE AND FINDINGS

The purpose of this chapter is to promote public traffic safety by prohibiting the solicitation of and by occupants of motor vehicles in the public right-of-way. The City finds and determines as follows:

- (a) The activity of soliciting employment, business or contributions by or from occupants of motor vehicles distracts drivers from their primary duty to watch traffic and potential hazards, observe traffic controls, and prepare to move through City streets.
- (b) Distracted drivers are more prone to have automobile accidents. Such accidents further impede the orderly flow of traffic and pose risks to persons engaged in the solicitation as well. (Ord. No. 1136, Sec. 1, 11-7-94)

5801 DEFINITIONS

As used in this chapter the following words shall have the following meanings:

- (a) "Solicit" shall mean and include any request, offer, enticement, or action which announces the availability for, or of employment, the sale of goods, services or other request for funds; or any request, offer, enticement or action which seeks to purchase or sell goods or employment, or to cause a contribution of money or other property to be made. As defined herein, a solicitation shall be deemed complete when made whether or not an actual employment relationship is created, a transaction is completed, or an exchange of money takes place.
- (b) "Employment" shall mean and include services, industry or labor performed by a person for wages or other compensation or under any contract of hire, written, oral, express or implied. (Ord. No. 1136, Sec. 1, 11-7-94)

5802 PROHIBITION OF SOLICITATION IN PUBLIC RIGHT-OF-WAY, STREETS AND MEDIANS

- (a) It shall be unlawful for any person, while standing in any portion of the public right-of-way, including but not limited to public streets, medians, highways, sidewalks and driveways, to solicit, or attempt to solicit, employment, business or contributions of money or other property from any person traveling in a vehicle along a public right-of-way, including, but not limited to public streets, highways or driveways.
- (b) It shall be unlawful for any person, while the occupant of any vehicle, to solicit, or attempt to solicit employment business or contributions of money or other property from a person who is within the public right-of-way, including, but not limited to a public street, highway, sidewalk, or driveway. (Ord. No. 1136, Sec. 1, 11-7-94)

5803 VIOLATIONS

Any violation of the provisions of this chapter may be prosecuted as an infraction or a misdemeanor, pursuant to Tustin City Code section 1121. (Ord. No. 1136, Sec. 1, 11-7-94)

5804 POSTING OF SIGNS

The City shall post signs in the public right-of-way streets and medians to specially notify the public of the prohibitions and punishment authorized by this chapter. (Ord. No. 1136, Sec. 1, 11-7-94)

CHAPTER 9 ABATEMENT OF SHOPPING CART NUISANCE

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- 5901 DEFINITIONS
- 5902 SHOPPING CART NUISANCE ABATEMENT AUTHORITY
- 5903 REMOVAL OF UNIDENTIFIED CARTS FROM PUBLIC PROPERTY
- 5904 DISPOSAL
- 5905 NUISANCE ABATEMENT FEE
- 5906 PROHIBITED ACTIVITIES
- 5907 APPEALS OF CART IMPOUND
- 5908 UNAUTHORIZED REMOVAL OR POSSESSION OF SHOPPING CARTS
- 5909 PENALTIES/REMEDIES NOT EXCLUSIVE

CHAPTER 7 SOLICITATION IN PRIVATE COMMERCIAL PARKING AREAS

6700 PURPOSE AND FINDINGS

The purpose of this chapter is to promote public safety by assisting owners of private commercial parking areas to control solicitation of motorists and pedestrians. This is necessary because:

- (a) The solicitation of motorists in commercial parking areas impedes the flow of traffic and distracts motorists.
- (b) The solicitation of pedestrians in commercial parking areas impedes motorists in finding parking spaces and safely exiting the parking area. (Ord. No. 1136, Sec. 2, 11-7-94)

6710 PROHIBITION OF SOLICITATION IN UNAUTHORIZED LOCATIONS WITHIN COMMERCIAL PARKING AREAS

- (a) No person shall solicit or attempt to solicit, employment, business or contributions of money or other property, from a location within a commercial parking area other than an area within or served by such parking area which is authorized by the property owner or the property owner's authorized representative for such solicitations. This section shall not apply to a solicitation to perform employment or business for the owner or lawful tenants of the subject premises.
- (b) For purposes of this section, "commercial parking area" shall mean privately owned property which is designed or used primarily for the parking of vehicles and which adjoins one (1) or more commercial establishments.
- (c) This section shall only apply to commercial parking areas where the following occurs:
 - (1) The owner or person in lawful possession of the commercial parking area establishes a written policy which provides area(s) for the lawful solicitation of employment, business, or contributions of money or other property, in locations which are accessible to the public and do not interfere with normal business operations of the commercial premises;
 - (2) A copy of said policy is submitted to the City Manager or designee to be maintained in City files; and
 - (3) The owner or person in lawful possession of the commercial parking area has caused a notice to be posted in a conspicuous place at each entrance to such commercial parking area not less than eighteen (18) by twenty-four (24) inches in size with lettering not less than one (1) inch in height and not to exceed in total area, six (6) square feet. The notice shall be in substantially the following form:

"It is unlawful and subject to punishment as an infraction or misdemeanor to engage in the solicitation of money or other property in areas of this commercial parking lot which are not approved for such activity by the property owner. (Ord. No. 1136, Sec. 2, 11-7-94)

6711 VIOLATIONS

Any violations of the provisions of this chapter may be prosecuted as an infraction or a misdemeanor, pursuant to Tustin City Code section 1121. (Ord. No. 1136, Sec. 2, 11-7-94)
CHAPTER 8 AMBULANCE SERVICE

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6806 ISSUANCE OR DENIAL OF LICENSE
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