

ORDINANCE NO. 171664

An ordinance adding section 41.59 to Article I of Chapter IV of the Los Angeles Municipal Code to prohibit aggressive soliciting.

WHEREAS, it is the intent of the 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 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 panhandling usually includes approaching or following pedestrians, the use of abusive language, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic. The 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 panhandlers seeking money by offering to perform "services" such as opening car doors or locating parking spaces, and

WHEREAS, the Council further 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 to or to avoid solicitation from others. Such places include buses, subways, and trains; 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, and

WHEREAS, this law is timely and appropriate because current laws and city regulations are insufficient to address the aforementioned problems. The restrictions contained herein are neither overbroad nor vague and are narrowly tailored to serve a substantial governmental interest. Furthermore, in enacting this legislation, the Council recognizes the availability of community service and other sentencing alternatives, which

may be appropriate remedies for violations of this law. The goal of this law is to protect citizens from the fear and intimidation accompanying certain kinds of solicitation that have become an unwelcome and overwhelming presence in the city.

NOW THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Chapter IV of the Los Angeles Municipal Code is hereby amended by adding a new Section 41.59 thereto, to read as follows:

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

(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) Motor vehicles and parking lots.

(A) 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.

(B) 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.

(C) 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 and stops.

(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, or within ten feet of any designated or posted public transportation vehicle stop, is guilty of a violation of this section if:

(i) He or she remains there after being asked to leave by the owner, driver, or operator of a public transportation vehicle; the agent of the owner, driver or operator of a public transportation vehicle; the owner or manager of a public transportation facility; the agent of the owner or manager of a public transportation facility; a member of a security force employed by the public transportation facility; or by a peace officer, as defined in Chapter 4.5 of Title 3 of the California Penal Code (commencing with Pen. Code, § 830); or

(ii) Within the immediately preceding 30 days, he or she engaged in a solicitation at that location and had been asked to leave by a person specified in subdivision (c)(3)(B)(i), above.

(iii) Subdivision (c)(3)(B)(ii) is not violated if a person who has been requested to leave enters the property within the designated period and solicits, asks, or begs with the express authorization of a person specified in subdivision (c)(3)(B)(i).

(4) Restaurants. Any person who solicits, asks, or begs in any outdoor or indoor dining area of a restaurant or other establishment serving food for immediate consumption is guilty of a violation of this section if:

(A) He or she remains there after being asked to leave by the owner, manager or supervisor of the restaurant or other food establishment; the agent of the owner, manager or supervisor of the restaurant; a member of a security force employed by the restaurant; or by a peace officer, as defined in Chapter 4.5 of Title 3 of the California Penal Code (commencing with Pen. Code, § 830), acting at the request of any of the persons specified in this subdivision; or

(B) Within the immediately preceding 30 days, he or she engaged in a solicitation at that location and had been asked to leave by a person specified in subdivision (c)(4)(A), above.

(C) Subdivision (c)(4)(B) is not violated if a person who has been requested to leave enters the property within the designated period and solicits, asks, or begs with the express authorization of a person specified in subdivision (c)(4)(A).

(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.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles JUN 25 1997 and was passed at its meeting of JUL 02 1997

J. MICHAEL CAREY, City Clerk

By *Dean M. Talar*
Deputy

Approved JUL 15 1997

Richard Riordan
Mayor

Approved as to Form and Legality

James K. Hahn
James K. Hahn, City Attorney

Paul Vasko
Richard Alarcon
Paul [unclear]

By *Earl E. Thomas* JUL 7 1997
EARL E. THOMAS
Assistant City Attorney

File No. 96-0146, S1