

ORDINANCE NO. 2011-07-099

**AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER FIFTEEN
(Addition of Section 15-68 regulating aggressive solicitation)**

WHEREAS, the City Council of the City of Urbana, Illinois ("City") finds that aggressive solicitation degrades the quality of life within the City by contributing to an enhanced sense of fear or by creating a threatening environment for the general population; and

WHEREAS, the City Council finds that aggressive solicitation jeopardizes the City's legitimate interests in fostering a safe and harassment-free climate for its citizens and in preserving its public places as areas where citizens may be free of intimidation or coercion; and

WHEREAS, the City is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, including the power to regulate for the protection of the public health, safety, and welfare; and

WHEREAS, the City Council finds that amending Chapter 15 of the Urbana City Code to regulate aggressive solicitation as hereinafter defined will protect the health, safety, and welfare of the citizens of the City; and

WHEREAS, in promulgating this Ordinance, the City Council's intent is not to impermissibly limit an individual's exercise of free speech but to impose narrowly tailored restrictions on aggressive solicitation to protect citizens from the fear and intimidation accompanying certain kinds of solicitations, while leaving open ample alternative channels of communication.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section 1.

Urbana City Code Chapter 15, "Miscellaneous Offenses and Provisions," Article IV, "Offenses Affecting Public Health, Safety and Decency," Division 1, "Generally," is hereby amended by adding the following section thereto:

Sec. 15-68 Aggressive solicitation.

(a) *Definitions.* For the purposes of this Section, the following definitions shall apply:

Aggressive solicitation means solicitation in a group of two or more persons or solicitation accompanied by any of the following actions:

- (1) Touching another person without that person's consent;
- (2) Blocking the path of the person solicited or blocking the entrance to any building or vehicle;
- (3) Continuing to solicit or to request a donation from a person after that person has refused an earlier request;
- (4) Following or remaining alongside a person who walks away from the solicitor after being solicited;
- (5) Making any statement, gesture, or other communication that would cause a reasonable person to feel threatened into making a donation; or
- (6) Using profane or abusive language during the solicitation or following a refusal to make a donation.

Automated teller machine means any automated teller machine as defined by the Automated Teller Machine Security Act, 205 ILCS 695/1 *et seq.*, as amended.

Bank means any bank or financial institution as defined by the Illinois Banking Act, 205 ILCS 5/1 *et seq.*, as amended.

Solicitation means a verbal request made in person upon any street, public place, or park in the city for an immediate donation of money or other thing of value, including a request to purchase an item or service of little or no monetary value in circumstances where a reasonable person would understand that the purchase is in substance a donation. Solicitation does not include the act of passively standing, sitting, or engaging in a musical performance or other street performance with a sign or other indication that donations are being sought, without any verbal request for a donation other than in response to an inquiry by another person. Nothing in this section shall be construed to permit any loud and raucous noise currently prohibited by chapter 16 of this Code.

(b) *Prohibitions.* No person shall engage in aggressive solicitation. No person shall engage in solicitation when the person solicited is located:

- (1) Within twenty feet (20') of an automated teller machine (ATM) or entrance to a bank, other financial institution, or check cashing business; or
- (2) On private property, if the owner, tenant, or occupant has asked the person not to solicit on the property or has posted a sign prohibiting soliciting.

(c) *Penalty.* Any person who commits an act prohibited by this section shall be subject to a fine as provided in the minimum fine schedule for certain violations adopted by the city council by ordinance. The circuit court may enjoin the person from committing further violations of this section. Each violation of this section shall constitute a separate offense.

State law reference: Vagrancy; prostitution, 65 ILCS 5/11-5-4.

Section 2.

Urbana City Code Chapter 1, "General Provisions," Section 1-18, "Minimum fine schedule for certain violations," is hereby amended by adding the following minimum fine thereto:

Chapter 15 Miscellaneous Offenses and Provisions

Section	Section Title	Minimum Fine
15-68	Aggressive solicitation:	
	1st offense:	\$50
	Subsequent offenses:	\$165

Section 3.

Those sections, paragraphs, and provisions of the Urbana City Code that are not expressly amended or repealed by this Ordinance are hereby re-enacted, and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Urbana City Code other than those expressly set forth as amended or repealed in this Ordinance. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

Section 4.

This Ordinance shall not be construed to affect any suit or proceeding pending

in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 5.

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this ____ day of _____, _____.

AYES:

NAYS:

ABSENT:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, _____.

Laurel Lunt Prussing, Mayor