



COUNTY OF HUMBOLDT

AGENDA ITEM NO.
C-9

For the meeting of: June 28, 2016

Date: June 10, 2016

To: Board of Supervisors

From: Amy S. Nilsen, County Administrative Officer *AN*

Subject: Adoption of an Ordinance adding Aggressive and Intrusive Solicitation to the Humboldt County Code

RECOMMENDATION(S):

That the Board of Supervisors:

1. Adopt Ordinance No. 2553, adding Sections 9101-1 and 9101-6 relating to Aggressive and Intrusive Solicitation to Chapter 1 of Division 10 of Title IX of the Humboldt County Code.

SOURCE OF FUNDING:

General Fund

DISCUSSION:

On June 21, 2016, the Board of Supervisors introduced the above-referenced ordinance for adoption; with a directive to the Clerk of the Board to publish a pre-adoption summary of the ordinance and set the ordinance for adoption at least one week away. This action completes adoption of the ordinance and will result in publication of a post-adoption summary.

Prepared by Amy S. Nilsen

CAO Approval *[Signature]*

REVIEW:

Auditor _____ County Counsel _____ Human Resources _____ Other _____

TYPE OF ITEM:

- Consent
- Departmental
- Public Hearing
- Other _____

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor *Sundberg* Seconded by Supervisor *Bass*

- Ayes *Sundberg, Fennell, Bohn, Bass*
- Nays *Lovelace*
- Abstain _____
- Absent _____

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: June 28, 2016
By: *[Signature]*
Kathy Hayes, Clerk of the Board

FINANCIAL IMPACT:

There is negligible financial impact related to adoption of the ordinance. Costs for enforcement of the ordinance are included in the proposed fiscal year 2016-17 budget.

This action supports the Board's Strategic Framework by creating opportunities for improved safety.

OTHER AGENCY INVOLVEMENT:

Not applicable.

ALTERNATIVES TO STAFF RECOMMENDATION:

Your Board could choose not to adopt the ordinance.

ATTACHMENTS:

Ordinance, Code Changes and Post Adoption Summary

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting of June 28, 2016

ORDINANCE OF THE COUNTY OF HUMBOLDT ADDING CHAPTER 1, DIVISION 10 OF TITLE IX TO THE HUMBOLDT COUNTY CODE RELATING TO AGGRESSIVE AND INTRUSIVE SOLICITATION

ORDINANCE NO. 2553

WHEREAS, the Board of Supervisors finds that, it is necessary to protect the safety and welfare of the general public and improve the quality of life and economic vitality of the COUNTY by imposing reasonable time, place and manner restrictions on aggressive and intrusive solicitation while respecting the constitutional rights of free speech for all citizens;

WHEREAS, aggressive and intrusive solicitation typically includes approaching or following pedestrians, the use of abusive language, unwanted physical contact, or the intentional blocking of pedestrian vehicular traffic;

WHEREAS, there has been an increase in aggressive solicitation through the COUNTY and that such behavior has become disturbing and disruptive to residents and businesses, and has also contributed to the loss of access to and enjoyment of places open to the public and has created an enhanced sense of fear, intimidation and disorder;

WHEREAS, solicitation from 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, is problematic and presents a risk to the health, safety and welfare of the public. Such places include public transportation vehicles and their designated locations for stops, as well as gasoline stations;

WHEREAS, solicitation on roadway median strips, at traffic intersections, and in the public roadway is unsafe and hazardous for solicitors, drivers, pedestrians, and the general public. Soliciting on roadway median strips, at traffic intersections, and in the public roadway increases the risk of drivers becoming distracted from their primary duty to watch traffic, which may result in automobile accidents, congestion and blockage of streets, delay and obstruction of the free flow of travel, all of which constitute substantial traffic safety problems;

WHEREAS, the practice of solicitation near driveways accessing shopping centers, retail, and business establishments is unsafe and hazardous for solicitors, drivers, pedestrians, and the general public. The location of the solicitor near the driveway compromises the solicitor's safety, impedes visibility, and impairs a driver's ability to safely enter and exit. Drivers also become distracted, which may result in automobile accidents, congestion and blockage of streets, delay and obstruction of the free flow of travel, all of which constitute substantial traffic safety problems.

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

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting of June 28, 2016

ORDINANCE NO. 2553

Therefore, the Board of Supervisors of the County of Humboldt ordains as follows:

SECTION 1. Sections 9101-1 through 9101-6 of Chapter 1 of Division 10 of Title IX are hereby added as shown on the attached pages.

SECTION 2. This ordinance relates to aggressive and intrusive solicitation and shall take effect August 1, 2016. A summary shall be published at least five (5) days before the date set for adoption and again fifteen (15) days after passage of this ordinance. It shall be published once with the names of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of Humboldt, State of California.

PASSED, APPROVED AND ADOPTED this 28th day of June, 2016 on the following vote, to wit:

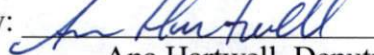
AYES:	Supervisors	Sundberg, Fennell, Bohn, Bass
NOES:	Supervisors	Lovelace
ABSENT:	Supervisors	--



MARK LOVELACE, Chair
Board of Supervisors of the County of Humboldt,
State of California

(SEAL)

ATTEST:
Kathy Hayes, Clerk of the Board of Supervisors
of the County of Humboldt, State of California

By: 
Ana Hartwell, Deputy

TITLE IX - PUBLIC PEACE, SAFETY AND WELFARE

DIVISION 10

AGGRESSIVE AND INTRUSIVE SOLICITATION

Chapter 1 - Aggressive And Intrusive Solicitation

- § 9101-1. Definitions.
- § 9101-2. Aggressive Solicitation Prohibited.
- § 9101-3. All Solicitation is Prohibited At The Specified Locations Set
Forth Below.
- § 9101-4. Penalty.
- § 9101-5. Severability.
- § 9101-6. Non-Exclusivity.

TITLE IX - PUBLIC PEACE, SAFETY AND WELFARE

DIVISION 10

AGGRESSIVE AND INTRUSIVE SOLICITATION

CHAPTER 1

9101-1. DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply:
(Ord. _____, § _____, / /2016)

(a) Aggressive Manner. Shall mean any of the following: (Ord. _____, § _____, / /2016)

1. Fear bodily harm to oneself or to another, damage to or loss of property; or (Ord. _____, § _____, / /2016)

2. Otherwise be intimidated into giving money or other thing of value; (Ord. _____, § _____, / /2016)

3. 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; (Ord. _____, § _____, / /2016)

4. Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonable causing a pedestrian or vehicle operator to take evasive action to avoid physical contact; (Ord. _____, § _____, / /2016)

5. Using violent or threatening gestures toward a person solicited either before, during, or after soliciting, asking or begging; (Ord. _____, § _____, / /2016)

6. 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 (Ord. _____, § _____, / /2016)

7. Using profane, offensive or abusive language which is inherently likely to provide an immediate violent reaction, either before, during, or after solicitation. (Ord. _____, § _____, / /2016)

(b) Automated Teller Machine. Any electronic information processing device which accepts or dispenses cash in connection with a credit, deposit, or convenience account. (Ord. _____, § _____, / /2016)

(c) Automated Teller Machine Facility. 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. (Ord. _____, § _____, / /2016)

(d) Bank. 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. (Ord. , \$, / /2016)

(e) Credit Union. 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. (Ord. , \$, / /2016)

(f) Check Cashing Business. Any person duly licensed as a check seller, bill payer, or prorater pursuant to Division 3 of the California Financial Code, commencing with § 12000. (Ord. , \$, / /2016)

(g) Gas Station Pump. A facility that is open to the public to purchase and pump gasoline into vehicles, specifically where the machine that actually discharges the gasoline into the vehicle is located. (Ord. , \$, / /2016)

(h) Public Place. 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, public alley, 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. (Ord. , \$, / /2016)

(i) Public Transportation Vehicle. Any vehicle, including a trailer bus, designed, used or maintained for carrying ten or more persons, including the driver; or a passenger vehicle designed for carrying fewer than ten persons, including the driver, and used to carry passengers for hire. (Ord. , \$, / /2016)

(j) Savings and Loan Association. Any federal savings and loan association and any "insured institution" as defined in Section 401 of the National Housing Act, as amended, any federal credit union as defined in Section 2 of the Federal Credit Union Act. (Ord. , \$, / /2016)

(k) Solicit, Ask or Beg. Shall include 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. , \$, / /2016)

9101-2. AGGRESSIVE SOLICITATION PROHIBITED.

No person shall solicit, ask or beg in an aggressive manner in any public place. (Ord. , \$, / /2016)

9101-3. ALL SOLICITATION IS PROHIBITED AT THE SPECIFIED LOCATIONS SET FORTH BELOW.

(a) 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 division shall be construed to prohibit the lawful vending of goods and services within such areas. (Ord. , § , / 2016)

(1) Exemptions. The provisions of this subsection (a) 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. (Ord. , § , / 2016)

(b) Public Transportation Vehicles. Any person who solicits, asks or begs in any public transportation vehicle is guilty of a violation of this section. (Ord. , § , / 2016)

(c) Gas Station Pumps. Any person who solicits, asks or begs within 15 feet of any gas pump is guilty of a violation of this section. (Ord. , § , / 2016)

9101-4. PENALTY.

Each act of solicitation shall constitute a separate offense. A violation of this section is punishable as a misdemeanor or infraction, chargeable at the District Attorney's discretion. (Ord. , § , / 2016)

9101-5. SEVERABILITY.

The provisions of this section are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this section, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this section, or the validity of its application to other persons or circumstances. (Ord. , § , / 2016)

9101-6. NON-EXCLUSIVITY.

Nothing in this chapter shall limit or preclude the enforcement of other applicable laws. (Ord. , § , / 2016)

SUMMARY FOR PUBLICATION AFTER ADOPTION OF ORDINANCE

(The summary shall be published within fifteen (15) days after the adoption of the ordinance.)

SUMMARY

On June ²⁸21, 2016, the Humboldt County Board of Supervisors adopted Ordinance No. _____, adding Sections 9101-1 through 9101-6 of Chapter 1 to Division 10 of Title IX of the Humboldt County Code relating to Aggressive and Intrusive Solicitation. This ordinance shall become effective August 1, 2016.

A copy of the ordinance is posted in the office of the Clerk of the Board of Supervisors.

The votes were:

- AYES:
- NOES:
- ABSENT: