
**CITY OF TEMPE
REQUEST FOR COUNCIL ACTION****Council Meeting Date: 2/7/2013
Agenda Item: 5C4**

ACTION: Introduction and first public hearing to amend Chapter 24, Article V, of the Tempe City Code relating to Aggressive Solicitation by amending sections 24-115 and 24-116. The second and final public hearing is scheduled for February 21, 2013. (Ordinance No. 2013.15)

FISCAL IMPACT: N/A

RECOMMENDATION: Staff recommends the adoption of Ordinance No. 2013.15.

BACKGROUND INFORMATION: The City of Tempe has a substantial interest in promoting the health, safety and welfare of its citizens, businesses and visitors. In order to reduce the distress caused by aggressive solicitation in outdoor areas of high tourist and heavy pedestrian areas of the city, and as aggressive solicitation activities create a safety hazard and an increased potential for criminal activities, the City Council has recommended amending the Tempe City Code.

The added prohibitions on aggressive solicitation include, as an individual or in a group:

- (a) within fifteen feet of any transit stop or taxi stand;
- (b) immediately adjacent to the entrance of a business in a manner interfering with ingress and egress;
- (c) from persons engaging in any financial transaction;
- (d) within ten feet from persons inside a business, including a patio area, without the authorization of a business owner; or
- (e) under false or misleading representations.

On January 24, 2013, staff presented the proposed Code amendments to the City Council at the Issue Review Session, and was given direction to move forward with the proposed amendments.

ATTACHMENTS: Ordinance

STAFF CONTACT(S): Judi Baumann, Deputy City Attorney, (480) 350-8779

Department Director: Andrew Ching, City Attorney
Legal review by: Andrew Ching, City Attorney
Prepared by: Judi Baumann, Deputy City Attorney

ORDINANCE NO. 2013.15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING CHAPTER 24, ARTICLE V, OF THE TEMPE CITY CODE, RELATING TO AGGRESSIVE SOLICITATION BY AMENDING SECTIONS 24-115 AND 24-116.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1. That Chapter 24, Article V, of the Tempe City Code is hereby amended by amending Section 24-115 as follows:

Section 24-115. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aggressive manner means, EITHER INDIVIDUALLY OR AS A GROUP:

- (1) Intentionally, knowingly or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;
- (2) Approaching or following a person before, during or after soliciting if that conduct is intended to or is likely to cause a reasonable person to fear bodily harm to oneself or another, or damage to or loss of property or otherwise be intimidated into giving money or other thing of value;
- (3) Continuing to solicit from a person after the person has given a negative response to such soliciting;
- (4) Intentionally, knowingly or recklessly obstructing the safe or free passage of the person being solicited or requiring the person to take evasive action to avoid physical contact with the person making the solicitations. Acts authorized as an exercise of one's constitutional right to picket or protest shall not constitute obstructing passage;
or

- (5) Intentionally, knowingly or recklessly using obscene, abusive or threatening language or gestures intended or likely to cause a reasonable person to fear imminent bodily harm or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

Section 2. That Chapter 24, Article V, of the Tempe City Code is hereby amended by amending Section 24-116 as follows:

Sec. 24-116. Prohibited Acts.

It shall be unlawful for any person to solicit any money or other thing of value, or to solicit the sale of goods or services:

- (1) In an aggressive manner in a public area;
- (2) Within fifteen (15) feet of any entrance or exit of any bank or within fifteen (15) feet of any automated teller machine; ~~or~~
- (3) In any public transportation vehicle or from persons waiting within fifteen (15) feet of a sign designating a bus stop-;
- (4) WITHIN FIFTEEN (15) FEET OF ANY TRANSIT STOP OR TAXI STAND;
- (5) IMMEDIATELY ADJACENT TO THE ENTRANCE OF A BUSINESS IN A MANNER INTERFERING WITH INGRESS OR EGRESS;
- (6) FROM PERSONS ENGAGING IN ANY FINANCIAL TRANSACTION;
- (7) WITHIN TEN (10) FEET FROM PERSONS INSIDE A BUSINESS, INCLUDING A PATIO AREA, WITHOUT THE AUTHORIZATION OF THE BUSINESS OWNER; OR
- (8) UNDER FALSE OR MISLEADING REPRESENTATIONS.

Section 3. Pursuant to the Tempe City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this _____ day of _____, 2013.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

Andrew B. Ching, City Attorney