

Public Discussion Draft
July 23, 2009



Send comments by
September 18, 2009
To: mayor@slcgov.com

SALT LAKE CITY ORDINANCE

No. _____ of 2009

(Commercial Solicitation)

An ordinance enacting Chapter _____ of the Salt Lake City Code, relating to commercial solicitation.

WHEREAS, the City Council intends in enacting this chapter to recognize free speech rights for all citizens while at the same time protecting the coexistent rights for all citizens to enjoy safe and convenient travel in public spaces free from intimidation, threats, and harassment that stem from certain types of abusive solicitation; and

WHEREAS, it has been observed that "requests for immediate payment of money create a strong potential for fraud or undue pressure, in part because of lack of time for reflection." *International Society for Krishna Consciousness v. Lee*, 505 U.S. 672 (1992) (concurrence by Justice Kennedy); and

WHEREAS, the City Council finds that there are numerous forms of solicitation that are not in and of themselves inherently threatening or aggressive, including non-vocal requests for a donation; carrying or displaying a sign requesting donations; shaking or jingling a cup of change; and ringing a bell in compliance with any applicable noise ordinance; and

WHEREAS, however, the City Council finds that there has been an increase in aggressive solicitation in the City, which threatens the security and privacy of both residents and visitors and may constitute harassment of such persons; and

WHEREAS, the City Council also finds that the presence of solicitors near banks or automatic teller machines in certain locations or at night can be especially threatening to persons; and

WHEREAS, the City Council finds that certain solicitation impedes the orderly flow of pedestrian and vehicular traffic that leads to concerns regarding traffic and public safety; and

WHEREAS, this chapter is not intended to impermissibly limit an individual's right to exercise free speech associated with solicitation; rather it aims to impose specific time, place, and manner restrictions on solicitation and associated conduct in certain limited circumstances; namely, aggressive solicitation, solicitation at locations or times deemed particularly threatening and dangerous, or soliciting in places where people are a "captive audience" and there is a wish to avoid or reduce a threat of inescapable confrontations; and

WHEREAS, in promulgating this chapter, the City Council seeks to impose regulations that are narrowly tailored to serve the aforementioned significant government interests.

Be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. That Chapter _____ of the Salt Lake City Code, relating to commercial solicitation be, and the same hereby is, enacted as follows:

_____ **Commercial Solicitation:**

A. Definitions.

"Commercial solicitation" or "to commercially solicit" is any request made in person on a street, sidewalk, or public place, asking for an immediate donation of money or other thing of value, including the purchase of an item or service for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is a donation. Commercial solicitation shall not include passively standing or sitting with a sign or other indication that one is seeking donations without addressing the request to any specific person, and does not refer to conduct regulated by chapter 2.64 of this code.

B. Prohibited Conduct

(1) Commercial solicitation in certain areas. It shall be unlawful for any person to commercially solicit when the person solicited is in any of the following places within the city:

- a. Inside or within twenty (20) feet of a sidewalk cafe or any outside eating or dining establishment;
- b. At or within twenty (20) feet of a line of people waiting to gain admission to a place or vehicle or waiting to purchase an item or admission ticket;
- c. At or within twenty (20) feet of a food-dispensing street vendor;
- d. In any public transportation vehicle or public transportation facility, excluding airports;
- e. At or within twenty (20) feet of a bus or train stop; or
- f. Within twenty (20) feet of the entrance to a place of religious assembly.

(2) **Money dispensing areas.** It shall be unlawful to commercially solicit if the person making the solicitation knows or reasonably should know that the solicitation is occurring within twenty (20) feet in any direction of an automated teller machine, including within twenty (20) feet in any direction of any entrance or exit to a building containing an automated teller machine that is visible from the street.

(3) **Particular manners.** The following manners of commercial solicitation are expressly prohibited, at any time and any manner, because of the coercive nature of each:

a. Hindrance to traffic.

1. Commercially soliciting in any manner that serves to intentionally block, obstruct, or interfere with orderly flow of either vehicles or pedestrians.
2. Commercially soliciting in any manner that intentionally and unreasonably causes a pedestrian or vehicle operator to take evasive action to avoid physical contact.
3. Commercially soliciting in any manner that violates traffic regulations for pedestrians or vehicles.

b. Aggressive commercial solicitation. It shall be unlawful for any person to commercially solicit in an aggressive manner, including any of the following actions:

1. Approaching or speaking to a person, or following a person before, during or after commercial solicitation, if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, or damage to or loss of property or otherwise be intimidated into giving money or any other thing of value;
2. Intentionally touching or causing physical contact with another person without that person's consent in the course of commercial solicitation; or

3. Directing violent or threatening gestures toward the subject of the commercial solicitation:

- (a) By blocking the path of the person solicited; or
- (b) By following or walking behind, ahead of, or alongside the person solicited;

or

- (c) By using profane or abusive language, either during the solicitation or following refusal; or
- (d) By accosting or forcing oneself upon the company of another; or
- (e) By any statement, gesture, or other communication that a reasonable person in the situation of the person solicited would perceive to be a threat.
- (f) By commercially soliciting in a group of two (2) or more persons.

(4) False or misleading solicitation. It shall be unlawful for any person to knowingly make any false or misleading representation in the course of commercial solicitation.

False or misleading representations include, but are not limited to, the following:

- a. Stating that the solicitor is from out of town and stranded when such is not true;
- b. Stating or suggesting falsely that the solicitor is either a current or former member of the armed services;
- c. Wearing or displaying an indication of physical disability when the solicitor does not suffer the disability indicated;
- d. Use of any makeup or device to simulate a deformity;
- e. Stating that the solicitor is homeless, when he or she is not;

f. Stating that the donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet the need and does not disclose that fact; or

g. Stating that the donation is needed to meet a need that does not exist.

(5) **Nighttime commercial solicitation.** It shall be unlawful for any person to commercially solicit after sunset and before sunrise.

C. Violation.

[Input regarding enforcement options is encouraged and welcome.]

SECTION 2. That this ordinance shall take effect immediately upon the date of its first publication.