

ORDINANCE NO. 15-03

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF QUARTZSITE, ARIZONA, AMENDING THE CODE OF QUARTZSITE, ARIZONA, CHAPTER 11 OFFENSES, BY ADDING NEW ARTICLE 11-7 AGGRESSIVE SOLICITATION RELATED TO REGULATING AGGRESSIVE SOLICITATION IN SPECIFIED LOCATIONS AND MANNERS; SETTING FORTH DEFINITIONS; SETTING FORTH PROHIBITED ACTS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY; AND PROVIDING PENALTIES.

WHEREAS, persons who approach and follow pedestrians, repeat solicitations despite refusals, use obscene or abusive language or gestures to cause fear and intimidation, cause unwanted physical contact, or intentionally block pedestrian and vehicular traffic engage in forms of aggressive solicitation that are extremely disturbing and disruptive to residents and businesses;

WHEREAS, aggressive solicitation contributes not only to the loss of access to, and enjoyment of, public places, but also to an increased sense of fear and intimidation; and

WHEREAS, the presence of individuals who solicit money from persons at or near banks, automated teller machines, or in public transportation vehicles is especially troublesome because of the enhanced fear of crime in those confined environments and such solicitation carries with it an implicit threat to both persons and property; and

WHEREAS, the mayor and council desire to protect citizens from fear and intimidation accompanying aggressive solicitation in the Town; and

WHEREAS, the mayor and council do not intend to limit any person from exercising the constitutional right to solicit funds, picket, protest, or engage in other constitutional activity, but to impose specific place and manner restrictions on solicitation and associated conduct under circumstances deemed particularly threatening or dangerous; and

WHEREAS, in approving this Ordinance, the mayor and council seek to impose regulations that are narrowly tailored to serve the aforementioned significant government interests;

NOW THEREFORE, BE IT ORDAINED by the Common Council of the Town of Quartzsite, Arizona, as follows:

Section I. In General.

The Code of the Town of Quartzsite, Arizona, Chapter 11 Offenses, is hereby amended by adding a new Article 11-7, Aggressive Solicitations to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

SEC. 11-7-1 DEFINITIONS

SEC. 11-7-2 PROHIBITED ACTS

SEC. 11-7-1 DEFINITIONS

IN THIS ARTICLE, UNLESS THE CONTEXT REQUIRES OTHERWISE:

A. "AGGRESSIVE MANNER" MEANS AND INCLUDES EITHER INDIVIDUALLY OR AS A GROUP:

1. INTENTIONALLY OR RECKLESSLY MAKING ANY PHYSICAL CONTACT WITH OR TOUCHING ANOTHER PERSON IN THE COURSE OF THE SOLICITATION WITHOUT THE PERSON'S CONSENT; OR

2. APPROACHING OR FOLLOWING THE PERSON BEING SOLICITED, IF THE CONDUCT IS:

A. INTENDED TO OR IS LIKELY TO CAUSE A REASONABLE PERSON TO FEAR IMMINENT BODILY HARM TO ONESELF OR ANOTHER, OR DAMAGE TO OR LOSS OF PROPERTY, OR THE COMMISSION OF A CRIMINAL ACT UPON THE PERSON OR PROPERTY IN THE PERSON'S POSSESSION; OR

B. INTENDED TO OR IS REASONABLY LIKELY TO INTIMIDATE A REASONABLE PERSON BEING SOLICITED INTO RESPONDING AFFIRMATIVELY TO THE SOLICITATION; OR

C. CONTINUING TO SOLICIT WITHIN FIVE (5) FEET OF THE PERSON BEING SOLICITED AFTER THE PERSON HAS MADE A NEGATIVE RESPONSE TO SUCH SOLICITATION; OR

D. INTENTIONALLY, KNOWINGLY, OR RECKLESSLY OBSTRUCTING THE SAFE OR FREE PASSAGE OF THE PERSON BEING SOLICITED, OR

REQUIRING THE PERSON, OR THE DRIVER OF A VEHICLE, TO TAKE EVASIVE ACTION TO AVOID PHYSICAL CONTACT WITH THE PERSON MAKING THE SOLICITATION. ACTS AUTHORIZED AS AN EXERCISE OF ONE'S CONSTITUTIONAL RIGHT TO PICKET OR LEGALLY PROTEST, AND ACTS AUTHORIZED BY A PERMIT ISSUED BY THE TOWN, SHALL NOT CONSTITUTE OBSTRUCTION OF PEDESTRIAN OR VEHICULAR TRAFFIC; OR

E. INTENTIONALLY OR RECKLESSLY USING OBSCENE OR ABUSIVE LANGUAGE OR GESTURES:

(1) INTENDED TO OR LIKELY TO CAUSE A REASONABLE PERSON TO FEAR IMMINENT BODILY HARM OR THE COMMISSION OF A CRIMINAL ACT UPON THE PERSON OR PROPERTY IN THE PERSON'S POSSESSION; OR

(2) INTENDED TO OR IS REASONABLY LIKELY TO INTIMIDATE A REASONABLE PERSON INTO RESPONDING AFFIRMATIVELY TO THE SOLICITATION.

B. "AUTOMATED TELLER MACHINE" MEANS A DEVICE, LINKED TO A FINANCIAL INSTITUTION'S ACCOUNT RECORDS, WHICH IS ABLE TO CARRY OUT TRANSACTIONS INCLUDING, BUT NOT LIMITED TO: ACCOUNT TRANSFERS, DEPOSITS, CASH WITHDRAWALS, BALANCE INQUIRIES, AND MORTGAGE AND LOAN PAYMENTS.

C. "AUTOMATED TELLER MACHINE FACILITY" MEANS 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. IT SHALL BE PRESUMED THAT ANY AUTOMOBILE PARKING SPACE WITHIN TWENTY-FIVE (25) FEET OF AN AUTOMATED TELLER MACHINE IS PART OF THE AUTOMATED TELLER MACHINE FACILITY TO PROVIDE ACCESS TO BANK CUSTOMERS.

D. "BANK" MEANS A BANK, CREDIT UNION, OR OTHER SIMILAR FINANCIAL INSTITUTION.

E. "PUBLIC AREA" MEANS AN AREA TO WHICH THE PUBLIC OR A SUBSTANTIAL GROUP OF PERSONS HAS ACCESS AND INCLUDES, BUT IS NOT LIMITED TO, ALLEYS, BRIDGES,

BUILDINGS, DRIVEWAYS, PARKING LOTS, PARKS, PLAYGROUNDS, PLAZAS, SIDEWALKS, AND STREETS OPEN TO THE GENERAL PUBLIC, AND THE DOORWAYS AND ENTRANCES TO BUILDINGS AND DWELLINGS, AND THE GROUNDS ENCLOSING THEM.

F. "PUBLIC TRANSPORTATION VEHICLE" MEANS ANY VEHICLE USED FOR THE TRANSPORTATION OF PASSENGERS ON SCHEDULED ROUTES ON AN INDIVIDUAL PASSENGER FARE-PAYING BASIS.

G. "SOLICIT" MEANS TO REQUEST AN IMMEDIATE DONATION OF MONEY OR OTHER THING OF VALUE FROM ANOTHER PERSON, REGARDLESS OF THE SOLICITOR'S PURPOSE OR INTENDED USE OF THE MONEY OR OTHER THING OF VALUE. THE SOLICITATION MAY BE, WITHOUT LIMITATION, BY THE SPOKEN, WRITTEN OR PRINTED WORD, OR BY OTHER MEANS OF COMMUNICATION.

SEC. 11-7-2 PROHIBITED ACTS

IT SHALL BE UNLAWFUL FOR ANY PERSON OR GROUP TO SOLICIT MONEY OR OTHER THINGS OF VALUE, OR TO SOLICIT THE SALE OF GOODS OR SERVICES:

A. IN AN AGGRESSIVE MANNER IN A PUBLIC AREA; OR

B. IN ANY PUBLIC TRANSPORTATION VEHICLE OR FROM ANY PERSONS WITHIN FIFTEEN (15) FEET OF ANY TRANSIT STOP, BUS STOP, TAXI STAND, TRAIN STATION PLATFORM OR THE INSIDE OF THE TRAIN STATION, EXCEPT THAT THE OPERATOR OF A PUBLIC TRANSPORTATION VEHICLE MAY REQUEST OR ACCEPT PAYMENT OF A FARE; OR

C. WITHIN FIFTEEN (15) FEET OF ANY ENTRANCE OR EXIT OF ANY BANK OR AUTOMATED TELLER MACHINE FACILITY, WITHOUT THE CONSENT OF THE OWNER OR OTHER PERSON LEGALLY IN POSSESSION OF SUCH FACILITY; OR

D. IMMEDIATELY ADJACENT TO THE ENTRANCE OF A BUSINESS IN A MANNER THAT PHYSICALLY INTERFERES WITH INGRESS OR EGRESS TO THAT BUSINESS ENTRANCE.

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section IV. Providing for Penalties.

Any person found guilty of violating any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500) or by imprisonment for a period not to exceed six (6) months, or both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as herein described.

PASSED AND ADOPTED by the Common Council of the Town of Quartzsite, Arizona, this 24th day of FEBRUARY, 2015, by the following vote:

AYES: 7
NAYES: 0 ABSENT: 0
EXCUSED: 0 ABSTAINED: 0

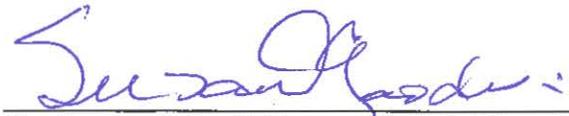
APPROVED this 24th day of FEBRUARY, 2015.


Ed Foster, Mayor

ATTEST:


Tina Abriani, Town Clerk

APPROVED AS TO FORM:


Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.
Town Attorneys
By: Susan D. Goodwin

I, TINA ABRIANI, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 15-03 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF QUARTZSITE ON THE 24th DAY OF FEBRUARY, 2015, WAS POSTED IN THREE PLACES ON THE 16th DAY OF MARCH, 2015.



Tina Abriani, Town Clerk