

ORDINANCE NO. 3782

AN ORDINANCE AMENDING SECTION 9.08.020 OF THE RAPID CITY MUNICIPAL CODE TO PROHIBIT AGGRESSIVE SOLICITING.

WHEREAS, the Rapid City Common Council finds that aggressive solicitation in public places is frequently accompanied by intimidating conduct; and

WHEREAS, the Rapid City Common Council finds that people often give money to aggressive solicitors out of fear rather than out of a charitable purpose; and

WHEREAS, the Rapid City Common Council finds that aggressive solicitation in public places often puts people in fear of being attacked; and

WHEREAS, the Rapid City Common Council finds that aggressive solicitation in public places is detrimental to the public peace and welfare; and

WHEREAS, the Rapid City Common Council finds that solicitation in public places by intoxicated persons presents a great risk of violence; and

WHEREAS, the Rapid City Common Council finds that solicitation at night is substantially more intimidating than daytime solicitation; and

WHEREAS, the Rapid City Common Council finds that people are especially vulnerable to intimidation when asked for money near financial institutions and automatic teller machines and while using public pay phones; and

WHEREAS, the Rapid City Common Council finds the people are vulnerable to intimidation when attempting to use public restroom facilities; and

WHEREAS, the Rapid City Common Council finds that solicitation of the operators of motor vehicles presents a danger to the public and to the solicitor because of the close proximity of pedestrians and vehicles; and

WHEREAS, the Rapid City Common Council finds it necessary to protect the public from fraudulent solicitation; and

WHEREAS, the Rapid City Common Council finds that public transportation and the associated facilities, such as bus stops, terminals and the airport, are places where the users of these public facilities cannot easily avoid unwanted solicitation; and

WHEREAS, the Rapid City Common Council finds that solicitation near the entrance to a building hinders people from entering and leaving the building and adversely impacts the businesses located therein; and

WHEREAS, the Rapid City Common Council finds that aggressive solicitation in public places is highly detrimental to the public peace and welfare; and

WHEREAS, the Rapid City Common Council finds that the regulation of solicitation and especially aggressive solicitations is necessary to protect the public peace and the welfare of all people who use public places; and

WHEREAS, the Rapid City Common Council finds that the regulation of solicitation and especially aggressive solicitation can be accomplished by the adoption of narrowly drawn regulations that prohibit only solicitation that is harmful to the public peace and welfare without interfering with peaceful solicitation;

Now therefore, BE IT ORDAINED that Section 9.08.020 of the Rapid City Municipal Code is hereby amended to read as follows:

9.08.020 Begging.

~~A. For the purposes of this section, "beg" means solicit money or other valuable consideration without giving valuable consideration in return. Solicitation consists of communication by words, signs or other conduct of a desire to receive charity. Begging shall not include solicitations by a bona fide nationally chartered veterans', religious, charitable, educational or fraternal organization, local civic or service club, political party or volunteer fire department or political committee which is duly existing under the laws of the state; provided, however, that the proceeds therefrom do not inure to the benefit of any individual, and the person making the solicitation identifies, prior to the solicitation, the organization for which he is soliciting.~~

~~B. No person shall beg upon any public street or in any public place.~~

~~C. It is unlawful for any person to falsely identify himself as soliciting on behalf of any bona fide organization as designated in subsection A of this section. (Prior code § 17-31)~~

9.08.020 Prohibition against certain forms of aggressive solicitation.

A) Definitions

For purpose of this section:

1) "Aggressive manner" shall mean:

a) Approaching or speaking to a person, or following a person before, during or after soliciting 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 other thing of value; or

b) Continuing to solicit from a person after the person has given a negative response to such soliciting; or

- c) Intentionally touching or causing physical contact with another person without that person's consent in the course of soliciting; or
 - d) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact; or
 - e) Using violent or threatening gestures toward a person solicited; or
 - f) Following the person being solicited, with the intent of asking that person for money or other things of value; or
 - g) Speaking in a volume unreasonably loud under the circumstances; or
 - h) Soliciting money from anyone who is waiting in line for entry to a building or for another purpose.
- 2) "Soliciting" shall mean asking for money or objects of value, with the intention that the money or object be transferred at that time, and at that place. Soliciting shall include using the spoken, written, or printed word, 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.
- 3) "Public place" shall mean a place where a governmental entity has title, to which the public or a substantial group of persons has access, including but not limited to any street, highway, parking lot, plaza, transportation facility, school, place of amusement, park, or playground.
- 4) "Financial Institution" shall mean any bank, credit union, savings and loan, or other similar business.
- 5) "Automated teller machine" shall mean 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.

B. Prohibited acts

- 1) No person shall solicit in an aggressive manner in any public place.
- 2) No person shall solicit on private or residential property without having first obtained permission from the owner or other person lawfully in possession of such property.
- 3) No person shall solicit within twenty feet of any entrance or exit of any financial institution or within twenty feet of any automated teller machine without the consent of the owner of the property or another person legally in possession of such facilities.

- 4) No person shall solicit an operator or other occupant of a motor vehicle while such vehicle is located on any street, for the purpose of performing or offering to perform a service in connection with such vehicle or otherwise soliciting the sale of goods or services.
- 5) No person shall solicit from any operator or occupant of a motor vehicle on a public street in exchange for blocking, occupying, or reserving a public parking space, or directing the operator or occupant to a public parking space.
- 6) No person shall solicit while under the influence of alcohol or a controlled substance.
- 7) No person shall solicit by stating that funds are needed to meet a specific need, when the solicitor has the funds to meet that need, does not intend to use funds to meet that need, or does not have that need.
- 8) No person shall solicit in any public transportation vehicle or at any bus stop or in any public parking lot or structure.
- 9) No person shall solicit within six feet of an entrance to a building.
- 10) No person shall solicit within twenty feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility.
- 11) No person shall solicit anytime before sunrise or anytime after sunset.
- 12) No person shall solicit within twenty feet of any public restroom facility.

C) Section 3. **Penalties**

Any violation of the provisions of this section is punishable by imprisonment for not more than thirty days or by a fine not to exceed two hundred dollars, or by both.

D) Section 4. **Severance**

If any section, sentence, clause, or phrase of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, it shall in no way affect the validity of any remaining portions of this ordinance.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

First Reading:
Second Reading:
Published:
Effective:

Prepared By: CITY ATTORNEY'S OFFICE