

385.60. Aggressive solicitation.

(a) Policy. As an aid in the interpretation and enforcement of this section the city council finds that:

- (1) Aggressive solicitation is disturbing and disruptive to residents and businesses and contributes to the loss of access to and enjoyment of public places and to a sense of fear, intimidation and disorder.
- (2) Aggressive solicitation may include approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic.
- (3) The presence of individuals who solicit money from persons in places that are confined, difficult to avoid, or where a person might find it necessary to wait, is especially troublesome because of the enhanced fear of crime.
- (4) This section is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation, and not to limit constitutionally protected activity.

(b) Definition. "Solicitation," as used in this section, means any plea made in person where:

- (1) A person by vocal appeal requests an immediate donation of money or other item from another person; or
- (2) A person verbally offers or actively provides an item or service of little or no monetary value to another in exchange for a donation, under circumstances where a reasonable person would understand that the transaction is in substance a donation.

However, solicitation shall not include the act of passively standing, sitting, or engaging in a performance of art with a sign or other indication that a donation is being sought, without any vocal request other than in response to an inquiry by another person.

(c) Prohibitions.

- (1) It shall be unlawful in a public place to engage in an act of solicitation when the person being solicited is present at any of the following locations:
 - a. In a restroom.
 - b. At a bus stop or shelter or light rail stop or shelter.
 - c. At a crosswalk.
 - d. In any public transportation vehicle or public transportation facility.
 - e. In a vehicle which is parked or stopped on a public street or alley.
 - f. In a sidewalk cafe.
 - g. In a line waiting to be admitted to a commercial or government establishment.
 - h. Within twenty (20) feet in any direction from an automatic teller machine or entrance to a bank, other financial institution, or check cashing business.
- (2) It shall be unlawful in a public place to engage in an act of solicitation in a manner that incorporates any of the following methods:
 - a. Intentionally touching or causing physical contact with the solicited person without that person's consent.
 - b. Intentionally blocking the path of the solicited person, or the entrance to any building or vehicle.
 - c. Following behind, ahead or alongside a person who walks away from the solicitor after being solicited, with the intent to intimidate or continue solicitation.
 - d. Using obscene, profane, or abusive language or gestures toward the solicited person.
 - e. Approaching the solicited person in a manner that:

1. Is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 2. Is intended to or is likely to intimidate a reasonable person into responding affirmatively to the solicitation.
- f. Solicitation while under the influence of alcohol or drugs.
- (d) Penalties. Each act of solicitation prohibited by this section shall constitute a separate violation of this section. Each violation shall be punishable as a misdemeanor.
- (e) Severance. If any section, sentence, clause, or phrase of this law 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 law.

385.50. Loitering. (a) No person shall loiter on the streets or in a public place or in a place open to the public with intent to solicit

- for the purposes of prostitution, illegal narcotic sale, distribution, purchase or possession, or any other act prohibited by law.
- (b) No person shall be present in a motor vehicle stopped, parked or operated on the street, in a public place or in a place open to the public with intent to solicit for the purposes of prostitution, illegal narcotic sale, distribution, purchase or possession, or any other act prohibited by law.
- (c) Among the circumstances which may be considered in determining whether a person intends to loiter for the purposes of engaging in prostitution are whether a person:
- (1) Repeatedly beckons to, stops or attempts to stop, or engages passersby in conversation;
 - (2) Repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture;
 - (3) Is a known prostitute or procurer of prostitutes; or
 - (4) Inquires whether a potential patron, procurer or a prostitute is a police officer or searches for articles that would identify a police officer or requests the touching or exposing of male or female genitals or female breasts to prove that the person is not a police officer.
- (d) Among the circumstances which may be considered in determining whether a person intends to loiter for the purpose of engaging in distributing illegal narcotics are whether a person:
- (1) Repeatedly beckons to, stops or attempts to stop, or engages passersby in conversation.
 - (2) Repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or other bodily gesture.
 - (3) Acts as a look-out.
 - (4) Transfers small objects or packages of currency or any other thing of value in a furtive fashion which would lead an observer to believe or ascertain that a drug transaction has or is about to occur.
 - (5) Carries small objects or packages in one's mouth and transfers such objects or packages to another person for currency or any other thing of value, or swallows or attempts to swallow the objects or packages if approached by a law enforcement officer.

A prima facie case may be established by a law enforcement officer's observations of the offender's behavior, and the seizure or recovery of illegal drugs shall not be a prerequisite to establishment of a prima facie case.

- (e) A violation of this section is a misdemeanor punishable by up to ninety (90) days in jail and/or a one thousand dollar (\$1,000.00) fine. The city prosecutor may request that the court impose, as a condition of pretrial release or probation, that the defendant be geographically restricted from a reasonable and limited area surrounding the location

where the crime allegedly occurred. The specific boundaries and duration of the geographic restriction shall be determined by the court and described to the defendant on-the-record or in writing.

- (f) Severance. If any section, sentence, clause, or phrase of this law 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 law.

ARTICLE IV. DRUG PARAPHERNALIA

223.210. Definitions.

Drug paraphernalia. The term "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use, in manufacturing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of Minnesota Statutes, Chapter 152. The term includes, but is not limited to:

- (1) Dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (2) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
- (3) Hypodermic syringes, needles, and other objects used, intended for use, and designed for use in parenterally injecting controlled substances into the human body; and
- (4) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, which shall include but not be limited to the following:
 - (a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - (b) Water pipes;
 - (c) Carburetion tubes and devices;
 - (d) Smoking and carburetion masks;
 - (e) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, which has become too small or too short to be held in the hand;
 - (f) Miniature cocaine spoons, and cocaine vials;
 - (g) Chamber pipes;
 - (h) Carburetor pipes;
 - (i) Electric pipes;
 - (j) Chillums;
 - (k) Bongos;
 - (l) Reserved;
 - (m) Ice pipes or chillers.

Intent; intended. The terms "intent" or "intended" refer to the intent of the person to be charged with a violation of this article.

Delivery. The term "delivery" means sale, dispensing, giving away, or supplying in any other manner. (82-Or-092, § 1, 5-14-82; 82-Or-196, § 1, 10-8-82)

223.220. Standards for determining violation. In determining probable cause for a violation of this article, law enforcement personnel shall consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) Prior criminal convictions, if any, of any owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;
- (3) The proximity of the object, in time and space, to a direct violation of this article;
- (4) The proximity of the object to any controlled substance;

- (5) The existence of any residue of a controlled substance on the object;
- (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to any person who he or she knows, or should reasonably know, intends to use the object to facilitate a violation of this article. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this article shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
- (7) Instructions, oral or written, provided with the object concerning its use;
- (8) Descriptive materials accompanying the object which explain or depict its use;
- (9) National and local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;
- (11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (12) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise;
- (13) The existence and scope of any legitimate use for the object in the community; and
- (14) Expert opinion concerning its use. (82-Or-196, § 2, 10-8-82)

223.230. Possession of drug paraphernalia prohibited. It is unlawful for any person knowingly or intentionally to use or to possess drug paraphernalia. Any violation of this section is a petty misdemeanor. (82-Or-092, § 1, 5-14-82; 82-Or-196, § 3, 10-8-82)

223.235. Possession of drug paraphernalia in a public place prohibited. It is unlawful for any person knowingly or intentionally to use or to possess drug paraphernalia in a public place. As used in this section, "public place" shall include streets, alleys and sidewalks dedicated to public use, and shall also include such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited commercially, for a fee, or otherwise, or in or on which the general public is permitted without specific invitation. Any violation of this section is a misdemeanor. (2003-Or-126, § 1, 10-24-03)

223.240. Manufacture or delivery of drug paraphernalia prohibited. It is unlawful for any person knowingly or intentionally to deliver drug paraphernalia or knowingly or intentionally to possess or manufacture drug paraphernalia for delivery. Any violation of this section is a misdemeanor. (82-Or-092, § 1, 5-14-82; 82-Or-196, § 3, 10-8-82)

223.250. Advertisement of drug paraphernalia prohibited. It is unlawful for any person knowingly to intentionally to place in any newspaper, magazine, handbill, or other publication any advertisement or promotion for the sale of drug paraphernalia. A violation of this section is a misdemeanor. (82-Or-092, § 1, 5-14-82; 82-Or-196, § 3, 10-8-82)

223.260. Confiscation of drug paraphernalia. All drug paraphernalia which has been confiscated by the police department and is no longer needed as evidence, and which has not been disposed of pursuant to order of the court, shall be forfeited to the chief of police, who shall make proper disposition thereof. (82-Or-092, § 1, 5-14-82; 82-Or-196, § 3, 10-8-82)