

ORDINANCE NO. 2018-10-072

AN ORDINANCE REPEALING URBANA CITY CODE SECTION 15-68

(Repeal of Aggressive Solicitation Ordinance)

WHEREAS, The City of Urbana, Illinois (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution of 1970 and may exercise any power and perform any function pertaining to its government and affairs, including the power to regulate for the protection of public health, safety, and welfare; and

WHEREAS, On July 7, 2011, the City Council enacted Urbana City Code Section 15-68 entitled “Aggressive Solicitation” (Ordinance No. 2011-07-099) to regulate the use of aggressive conduct in connection with solicitation for the immediate tender of money; and

WHEREAS, courts carefully and fully scrutinize government regulation of speech on First Amendment (U.S. Const. Amend. I) grounds especially where it appears that the governmental regulation is based on the content of the speech (allowing some forms of speech while banning other forms of speech); and

WHEREAS, courts construe expressive conduct as well as words (including solicitation for the immediate tender of money) as speech for First Amendment purposes; and

WHEREAS, courts have struck down other municipalities’ aggressive solicitation (panhandling) ordinances that contain many of the same restrictions as Urbana City Code Section 15-68 on grounds that they violate the First Amendment; and

WHEREAS, the City has other ordinances for regulating the aggressive conduct that the City Council sought to regulate without regulating constitutionally protected speech such as the City’s ordinances dealing with aiding and abetting (UCC Sec. 15-1); assault (UCC Sec. 15-16), battery (UCC

Sec. 15-17), reckless conduct (UCC Sec. 15-18), criminal trespass to land (UCC Sec. 15-35) disorderly conduct (UCC Sec. 15-60, and mob action (UCC Sec. 15-61); and

WHEREAS, the City Council finds that repealing Urbana City Code Section 15-68 will serve the citizens of the City of Urbana, Illinois while not unduly restraining the enforcement of City ordinances concerning aiding and abetting, assault, battery, reckless conduct, disorderly conduct, criminal trespass to land, and mob will allowing persons in need of financial assistance and/or who are homeless to seek such assistance from other citizens of and visitors to the City of Urbana.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Illinois, as follows:

Section 1.

Urbana City Code Section 15-68 entitled “Aggressive Solicitation” shall be and hereby is repealed in full upon the effective date of this Ordinance.

Section 2.

Those sections, paragraphs, and provisions of the Urbana City Code that are not expressly amended or repealed by this Ordinance shall be and hereby are re-enacted, and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Urbana City Code other than as expressly set forth in this Ordinance. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions hereof.

Section 3.

This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or be affective by this Ordinance.

Section 4.

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code (65 ILCS 5/1-2-4).


This Ordinance is hereby passed by the affirmative vote, the “ayes” and “nays” being called, of a majority of the members of the City Council of the City of Urbana, Illinois at a duly notice and convened meeting of the said City Council.

PASSED BY THE CITY COUNCIL this 5th day of November, 2018.

AYES: Ammons, Brown, Hazen, Jakobsson, Miller, Roberts, Wu

NAYS:

ABSTENTIONS:



Charles A. Smyth, City Clerk

APPROVED BY THE MAYOR this 7th day of November, 2018.




Diane Wolfe Marlin, Mayor



CERTIFICATE OF PUBLICATION IN PAMPHLET FORM



I, Charles A. Smyth, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois. I certify that on the 5th day of November 2018 the City Council of the City of Urbana passed and approved Ordinance No. 2018-10-072, entitled:

**AN ORDINANCE REPEALING URBANA CITY CODE SECTION 15-68
(REPEAL OF AGGRESSIVE SOLICITATION ORDINANCE)**

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2018-10-072 was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the 7th day of November 2018, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

Dated at Urbana, Illinois, this 7th day of November, 2018.





Charles A. Smyth, City Clerk