

ORDINANCE NO. 2015-15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AMENDING ESCONDIDO MUNICIPAL CODE CHAPTER 17, ARTICLE 1, SECTION 17-5 AND CHAPTER 18, ARTICLE 4, SECTION 18-107

COPIES TO:
ENGINEERING _____
FINANCE _____
PLANNING _____
PBLC.WRKS. _____
UTILITIES _____
OTHER _____
<i>GRAN FORTER</i>

WHEREAS, the City of Escondido wishes to improve the tools available to law enforcement in dealing with safety issues surrounding the use of medians and public sidewalks, walkways and passageways; and

WHEREAS, the City of Escondido seeks to address these pedestrian safety concerns by amending Escondido Municipal Code Section 17-5 to prohibit a person from remaining on a median except when waiting to cross the roadway at the next pedestrian signal; and

WHEREAS, Escondido Municipal Code Section 18-107 currently prohibits abusive solicitation in recreational areas and the City of Escondido seeks to apply that prohibition to public sidewalks, walkways or passageways in other public places within the City by amending Section 17-5; and

WHEREAS, the City of Escondido also seeks to make certain editorial changes to Section 18-107.

Now, therefore, the City Council of the City of Escondido, California, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. That Escondido Municipal Code Chapter 17, Article 1, Section 17-5, is hereby amended to read as follows:

Sec. 17-5. Use of streets, sidewalks, public places.

- (a) It shall be unlawful for any person to sit, lie, recline, kneel or otherwise restrict or obstruct the free use of any public sidewalk, walkway, passageway, or any public place, or for any number of persons to congregate in such manner as to obstruct or interfere with the free movement and passage of persons or vehicles in any public street or any other public place within the city.
- (b) It shall be unlawful for any person to engage in abusive solicitation, as defined in Section 18-107, on any public sidewalk, walkway or passageway in any public street or any other public place within the city.
- (c) It shall be unlawful for any person to stop or remain in a painted or raised traffic island or median except to wait to cross the roadway at the next pedestrian signal or, in the absence of a pedestrian signal, when traffic has cleared or yielded. Subsection (c) shall not apply to those persons occupying a median while conducting activities related to maintenance, surveying, construction, landscape maintenance, landscape improvements, law enforcement, responding to an emergency, or as otherwise permitted by law.
- (d) A violation of this section shall be a misdemeanor.

SECTION 2. That Escondido Municipal Code Chapter 18, Article 4, Section 18-107, is hereby amended to read as follows:

Sec. 18-107. Solicitation of alms, contributions.

It is the intent of this section to impose reasonable place and manner limitations on solicitation, as defined herein, in order to protect the safety of the general public against "abusive solicitation" in recreational areas within the city while respecting the constitutional right of free speech.

The following words or phrases as used in this section shall have the following meanings:

Abusive solicitation means to do one or more of the following while engaging in solicitation or immediately thereafter:

- (1) Coming closer than three feet to the person solicited unless and until the person solicited indicates that he or she wishes to make a donation;
- (2) Blocking or impeding the passage of the person solicited;
- (3) Following the person solicited by processing behind, ahead or alongside of him or her after the person solicited declines to make a donation;

- (4) Threatening the person solicited with physical harm by word or gesture;
- (5) Abusing the person solicited with words which are offensive and inherently likely to provoke an immediate violent reaction;
- (6) Touching the solicited person without the solicited person's consent; or
- (7) Soliciting from any person traveling in a vehicle.

No person shall engage in abusive solicitation in any recreational areas within the city. Any person who engages in abusive solicitation as defined herein shall be guilty of a misdemeanor.

Donation means a gift of money or other item of value and shall also include the purchase of an item for an amount far exceeding its value under circumstances where a reasonable person would understand that the purchase is in substance a gift.

Solicitation means any request made in person seeking an immediate donation of money or other item of value. A person shall not be deemed to be in the act of solicitation where he or she passively displays a sign or gives any other indication that he or she is seeking donations without addressing his or her solicitation to any specific person, other than in response to an inquiry by that person.

SECTION 3. SEPARABILITY. If any section, subsection sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 4. That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5. That the City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published in accordance with California Government Code Section 36933.

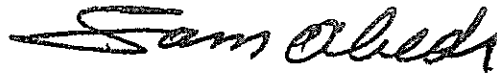
PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 5th day of August, 2015 by the following vote to wit:

AYES : Councilmembers: GALLO, MASSON, MORASCO, ABED

NOES : Councilmembers: NONE


ABSENT : Councilmembers: DIAZ

APPROVED:



SAM ABED, Mayor of the
City of Escondido, California


ATTEST:



DIANE HALVERSON, City Clerk of the
City of Escondido, California

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO : ss.
CITY OF ESCONDIDO)

I, DIANE HALVERSON, City Clerk of the City of Escondido, hereby certify that the foregoing ORDINANCE NO. 2015-15 passed at a regular meeting of the City Council of the City of Escondido held on the 5th day of August, 2015, after having been read at the regular meeting of said City Council held on the 8th day of July, 2015.



DIANE HALVERSON, City Clerk of the
City of Escondido, California

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