

## **Bonus Section A**

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That a new section is hereby added to Chapter 13.36, Title 13 of the Berkeley Municipal Code (Public Peace, Morals and Welfare), to read as follows:

### **13.36.015 Sitting and Lying on Public Sidewalks Prohibited When; Violation Constitutes Infraction**

A. Prohibition. No person, after having been notified by a law enforcement officer that he or she is in violation of the prohibition in this section, shall sit or lie down upon a public sidewalk, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk, within six feet of the face of any building fronting the right-of-way in any commercial zone in the City of Berkeley between the hours of 7:00 a.m. and 10:00 p.m.

B. Exceptions. The prohibition in Subsection A shall not apply under the following circumstances:

1. to any person sitting or lying down on a public sidewalk due to a medical emergency;

2. to any person who, as the result of a disability, utilizes a wheelchair or similar device to move about the public sidewalk;

3. to a child who is utilizing a stroller or similar device to move about the public sidewalk;

4. to a person authorized to ride a bicycle on the sidewalk pursuant to section 14.04.130 of this Code;

5. to any person who is a proprietor, patron or employee of an establishment or vendor, duly authorized by the City to conduct business in the public right-of-way.

Nothing in any of these exceptions shall be construed to permit any conduct which is prohibited by any other provision of law.

C. Penalty. Notwithstanding the provisions of section 13.36.100 any person who shall be convicted of a violation of Berkeley Municipal Code section 13.36.015 shall be guilty of an infraction and shall be punishable as set forth in Chapter 1.20 of this code.

Section 2. That Chapter 13.37 of Title 13 (Public Peace, Morals and Welfare) of the Berkeley Municipal Code is hereby added to read as follows:

Chapter 13.37

LIMITATION OF THE TIME, PLACE AND  
MANNER OF SOLICITATION FOR THE  
IMMEDIATE PAYMENT OF MONEY OR GOODS  
IN PUBLIC PLACES.

Sections:

13.37.010	Definitions
13.37.020	Prohibited Acts
13.37.030	Violation- Penalty

Section 13.37.010 Definitions

For purposes of this ordinance the following terms shall be defined as set forth in this section.

A. "After dark" means, any time from one-half hour after sunset to one-half hour before sunrise.

B. "Coerces, threatens, hounds or intimidates the person solicited" means soliciting another in any of the following manners:

1. The solicitor acts in a manner which would cause a reasonable person who was solicited to fear for his or her own safety. Factors to be weighed in determining whether the behavior would cause a reasonable person to fear for his or her own safety include but are not limited to, the making of threatening gestures, the proximity of the solicitor to the person solicited, the duration of the solicitation, making physical contact with the person solicited.

2. The person who solicits persists in following the person solicited closely, after the person being solicited has informed the solicitor by words or conduct that such person does not want to be solicited.

C. "Public place" means a publicly owned building and premises appurtenant thereto, any public park, sidewalk, or other right of way open to the general public and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, and streets. This ordinance does not regulate solicitation on private property.

D. "Solicit" means to ask for the immediate payment of money or goods, whether by words, bodily gestures, signs or other means.

E. "Solicitor" means one who solicits as defined herein.

**Section 13.37.020 Prohibited Acts**

A. It is unlawful for any person to solicit another in any public place at the times, locations and in the manner specified below: ] \*

1. In any manner which coerces, threatens, hounds, or intimidates the person solicited;

2. From any person entering or exiting from an automotive vehicle;

[ 3. Within ten (10) feet of any automatic teller machine in the City of Berkeley; ] \*

4. Within six feet of the face of any building fronting the right-of-way in any commercial zone in the City of Berkeley;

5. After dark as defined in this ordinance. No person shall be cited or arrested for violation of subsections 13.37.020A(3), A(4) unless he or she has been first notified that he or she is in violation of the distance or time restrictions imposed by these subsections.

B. Non-exclusivity. Nothing in this chapter shall limit or preclude the enforcement of other applicable laws.

**Section 13.37.030 Violation- Penalty**

Any person who shall be convicted of a violation of any of the provisions of this chapter shall be deemed guilty of an infraction and shall be punishable as set forth in Chapter 1.20 of this code.

Section 3. Effective Date

This Ordinance shall become effective on January 1, 1995.

Section 4. Severability

If any provision of this Ordinance or application thereof is held to be invalid, this invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions and applications of this ordinance are severable.