

ORDINANCE NO. 08-12 N.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND, CALIFORNIA REPEALING CHAPTER 14.72 OF THE RICHMOND MUNICIPAL CODE PERTAINING TO SOLICITATION OF VEHICLE OCCUPANTS

WHEREAS, in 1986 the Ninth Circuit Court of Appeals held in *Acorn v. City of Phoenix*, 798 F. 2d 1260 (9th Cir. 1986), that anti-solicitation laws could be enacted as valid, content-neutral, time, place and manner restrictions; and

WHEREAS, following the Ninth Circuit’s decision in *Acorn*, the City of Richmond enacted a vehicle solicitation ordinance, codified in Richmond Municipal Code Chapter 14.72; and

WHEREAS, in a recent case entitled *Comite de Jornaleros de Redondo Beach v. City of Redondo Beach*, 657 F.3d 936 (9th Cir. 2011), the Ninth Circuit Court of Appeals found Redondo Beach’s street solicitation ordinance to be an unconstitutional restraint on speech and thus barred that City from enforcing provisions of its ordinance; and

WHEREAS, Richmond Municipal Code Chapter 14.72.040 renders it unlawful for anyone to solicit employment, business, or contributions while standing in certain public areas, including public streets, freeways or highways; and

WHEREAS, Richmond Municipal Code Chapter 14.72.040 is similar to the code provision at issue in *Comite*, and

WHEREAS, in 2012, the United States Supreme Court denied the City of Redondo Beach’s petition for certiorari in *Comite* and the decision of the Ninth Circuit of Appeals is now final.

NOW, THEREFORE, the City Council of the City of Richmond, California HEREBY ORDAINS as follows:

SECTION I

Chapter 14.72 of the Richmond Municipal Code is hereby repealed in its entirety.

SECTION II

Any provisions of the Richmond Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION III

Severability. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, the remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed each section, subsection, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, paragraph, sentence, clause or phrase.

SECTION IV

Effective Date. All applications filed after or pending upon the date of final passage and adoption of this Ordinance shall be subject to this Ordinance. This Ordinance becomes effective thirty (30) days after its final passage and adoption.

First read at a regular meeting of the Council of the City of Richmond, California, held, July 17, 2012, and finally passed and adopted at a special meeting thereof held July 31, 2012, by the following vote:

AYES: Councilmembers Bates, Beckles, Booze, Butt, Ritterman, Vice Mayor Rogers, and Mayor McLaughlin.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

DIANE HOLMES
CLERK OF THE CITY OF RICHMOND

(SEAL)

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

BRUCE REED GOODMILLER
City Attorney

State of California }
County of Contra Costa } : ss.
City of Richmond }

I certify that the foregoing is a true copy of Ordinance No. 08-12 N.S., finally passed and adopted by the City Council of the City of Richmond at a special meeting held on July 31, 2012.