

- 33 (ii) any entrance or exit to a building containing an automated teller machine.
34 (c) from a person who is in an Outdoor Dining Area.
35 (d) from a person who is inside of a restaurant, bar, or business.
36 (e) on private property, if the owner, tenant, lawful occupant, or employee of any of them
37 has asked the person not to solicit on the property or has posted a sign clearly indicating
38 that such solicitation is prohibited, not allowed, or not welcome on the property.
39 (f) from any operator or occupant of a motor vehicle on a public street in exchange for
40 blocking, occupying, or reserving a public space, or directing the occupant to a public
41 parking space.
42 (g) while in any roadway.
43 (h) in an Aggressive Manner.
44

45 (2) Definitions. The following definitions are solely for the purposes of the interpretation of this
46 Section:

47 Aggressive Manner means any of the following conduct:

- 48 (a) Intentionally or recklessly
49 (i) making any physical contact with the person being Solicited in the course of
50 the Solicitation; or
51 (ii) being within the length of the arm of the person being Solicited in the course
52 of the Solicitation.
53 (b) Following the person being Solicited, if that conduct is intended to or is likely to
54 cause a reasonable person:
55 (i) to fear imminent bodily harm or touching; or
56 (ii) to fear the commission of a criminal act upon property in the person's
57 possession; or
58 (iii) to intimidate the person being solicited into responding affirmatively to the
59 Solicitation.
60 (c) Continuing to Solicit within five feet of the person being Solicited after the person
61 has made a negative response to the Solicitation; or
62 (d) Intentionally or recklessly
63 (i) blocking the passage of the person being Solicited or requiring the person to
64 stop or to take evasive action to avoid physical contact with the person making
65 the Solicitation; or
66 (ii) blocking, touching a motor vehicle that is in traffic, whether stopped or
67 moving; or
68 (iii) being such close proximity to a vehicle that is in traffic, whether stopped or
69 moving, so that the vehicle is unable to move without endangering the
70 Solicitor; or
71 (iv) Soliciting at an unreasonably loud voice under the circumstances , if that
72 conduct is intended to or is likely to cause a reasonable person:

- a. to fear imminent bodily harm or touching; or
- b. to fear the commission of a criminal act upon property in the person's possession; or
- c. to intimidate the person being solicited into responding affirmatively to the Solicitation; or.

(v) Soliciting with words intended to or likely to cause a reasonable person:

- a. to fear imminent bodily harm or touching; or
- b. to fear the commission of a criminal act upon property in the person's possession; or
- c. to intimidate the person being Solicited into responding affirmatively to the Solicitation.

(vi) Approaching the person being Solicited in a manner that is likely to cause a reasonable person

- 1. to fear imminent bodily harm or touching; or
- 2. to fear the commission of a criminal act upon property in the person's possession; or
- 3. to intimidate the person being solicited into responding affirmatively to the solicitation.

Outdoor Seating Area means the location on a public right of way that is used for the consumption of food and/or beverage for which a City permit was issued.

Solicit or Solicitation, means the spoken, written, or printed word or such other acts or bodily gestures as are conducted in furtherance and for the purposes of obtaining something of value or to sell something.

(3) Penalty. A person found to be in violation of this Section shall be sentenced as follows:

- (a) to a fine of \$200 and/or imprisonment not to exceed 30 days if the prohibited Solicitation was not conducted in an Aggressive Manner
- (b) to a fine greater than \$200 but not to exceed \$500 and/or imprisonment for no more than 60 days.

(4) This ordinance is not intended to:

- (a) proscribe any demand for payment for services rendered or goods delivered; or

Section 3: Codification. The provisions of this ordinance are to become and be made part of the Code of Ordinances of the City of South Miami as amended; that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

Section 4. Ordinance in Conflict. All ordinances or parts of ordinances and all sections

114 and part of sections of ordinances in direct conflict herewith are hereby repealed. However, it is not
115 the intent of this section to repeal entire ordinances, or parts of ordinances, that give the appearance
116 of being in conflict when the two ordinances can be harmonized or when only a portion of the
117 ordinance in conflict needs to be repealed to harmonize the ordinances. If the ordinance in conflict
118 can be harmonized by amending its terms, it is hereby amended to harmonize the two ordinances.
119 Therefore, only that portion that needs to be repealed to harmonize the two ordinances will be
120 repealed.
121

122 **Section 5. Corrections.** Conforming language or technical scrivener-type corrections may
123 be made by the City Attorney for any conforming amendments to be incorporated into the final
124 ordinance for signature.

125
126 **Section 6. Severability.** If any section, clause, sentence, or phrase of this ordinance is for
127 any reason held invalid or unconstitutional by a court of competent jurisdiction, this holding will not
128 affect the validity of the remaining portions of this ordinance.
129

130
131 **Section 7. Effective Date.** This ordinance will become effective upon enactment.
132

133
134 PASSED AND ENACTED this ____ day of _____, 2022.
135

136 ATTEST:

APPROVED:

137
138 _____
139 CITY CLERK

137
138 _____
139 MAYOR

140
141 1st Reading

142 2nd Reading
143

144
145 READ AND APPROVED AS TO FORM,
146 LANGUAGE, LEGALITY, AND
147 EXECUTION THEREOF

COMMISSION VOTE:
Mayor Philips:
Commissioner Liebman:
Commissioner Harris:
Commissioner Gil:
Commissioner Corey:

148
149 _____
150 CITY ATTORNEY
151
152