

ORDINANCE NO. 2017 - 210

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENIFEE, CALIFORNIA, ADDING CHAPTER 11.08 TO THE MENIFEE MUNICIPAL CODE PROHIBITING CERTAIN FORMS OF SOLICITATION

THE CITY COUNCIL OF THE CITY OF MENIFEE DOES ORDAIN AS FOLLOWS:

SECTION 1 A new Chapter 11.08 prohibiting certain forms of solicitation in the City is hereby added to the Menifee Municipal Code to read in its entirety as follows:

“Chapter 11.08: PROHIBITION AGAINST CERTAIN FORMS OF SOLICITATION

Section

11.08.010	Findings
11.08.020	Definitions
11.08.030	Solicitations Prohibited at Specific Locations
11.08.040	Aggressive Solicitations Prohibited
11.08.050	Exemptions
11.08.060	Penalties

§ 11.08.010 FINDINGS.

For purposes of this Chapter, the City Council finds as follows:

- (A) The City Council finds “aggressive solicitation” is unsafe and disruptive to persons in the City of Menifee and is a threat to public health, safety, and general welfare.
- (B) The City Council finds that solicitation at banks, automatic teller machines and check cashing businesses, from persons in vehicles, in parking lots after dark, in public transportation vehicles, at gasoline stations and fuel pumps, in driveways, on median strips and freeway ramps, in City parks, on landscaped parkways/trails, and at dining establishments that subjects persons in the City of Menifee to danger. Soliciting from persons in vehicles results in the congestion of public streets and can lead to distracted drivers causing accidents constituting a danger to pedestrian and vehicular traffic safety. The City Council further finds that soliciting from people in locations where it is difficult to avoid the solicitation makes persons who will commonly be carrying money on their persons vulnerable to intimidation and such solicitation detracts from the rights of persons in the City to quietly enjoy public facilities.
- (C) The restrictions of this section are content neutral and are narrowly tailored to serve a significant governmental interest but still provide alternatives avenues of communication. The reasonable time, place, manner restrictions of this section

avoid the negative effects of aggressive solicitation and solicitation in unsafe places and will not unreasonably restrict free speech of people engaged in solicitation.

§ 11.08.020 DEFINITIONS.

For purposes of this Chapter, the following shall apply:

- (A) **Solicit, Ask, or Beg.** Include using the spoken, written, or printed word, or bodily gestures, signs or other means with the purpose of obtaining an immediate donation of money or other thing of value or soliciting the sale of goods or services.
- (B) **Public Place.** A place to which the public or a substantial group of persons has access, and includes, but is not limited to, any street, the right-of-way of any freeway, including any on ramp, off ramp, or roadway shoulder which lies within the right-of-way of the freeway, highway, sidewalk, median, parking lot, plaza, transportation facility, school, place of amusement, park, improved trail, playground, and any doorway, entrance, hallway, lobby and other portion of any business establishment, an apartment house or hotel not constituting a room or apartment designed for actual residence.

§ 11.08.030 SOLICITATIONS PROHIBITED AT SPECIFIC LOCATIONS.

- (A) **Financial Institutions and Automated Teller Machines (ATMs).** No person shall solicit within 25 feet of any entrance or exit of any financial institution during its business hours or within 25 feet of any automated teller machine during the time it is available for customers' use. When an automated teller machine is located within an ATM facility, such distance shall be measured from the entrance or exit of the ATM facility. No person shall solicit within an ATM facility where a reasonable person would or should know that he or she does not have the permission to do so from the owner or other person lawfully in possession of such facility.
- (B) **Parking Lots and Parking Structures.** No person shall solicit in any public parking lot or structure any time.
- (C) **Public Transportation Vehicles and Stops.** No person shall solicit in any public transportation vehicle or within 50 feet of any designated or posted public transportation vehicle stop.
- (D) **Gasoline Stations and Fuel Pumps.** No person shall solicit from an operator or occupant of a motor vehicle while such vehicle is stopped in a gasoline station or at a fuel pump.

(E) Driveways Accessing Shopping Center, Retail and Business

Establishments. No person shall solicit from an operator or occupant traveling in a motor vehicle while such vehicle is located within 25 feet of a driveway providing vehicular access to a shopping center, retail or business establishment.

(F) Medians/Parkways.

- (1) No person shall linger on a median or parkway.
- (2) No person shall loiter on a median or parkway.
- (3) No person shall solicit upon any median or parkway or in any manner or location that is inconsistent with the provisions of the California Vehicle Code.

(G) Dining Establishments. No person shall solicit in any outdoor dining area of any restaurant or other dining establishment serving food for immediate consumption.

(H) Parks and Trails. No person shall solicit in any public park or improved public trail at any time.

§ 11.08.040 AGGRESSIVE SOLICITATIONS PROHIBITED.

(A) "Aggressive manner" shall mean any of the following:

- (1) Approaching or speaking to a person, or following a person before, during or after soliciting, asking or begging, if that conduct is intended or is likely to cause a reasonable person to:
 - a. Fear bodily harm to oneself or to another;
 - b. Damage to or loss of property; or
 - c. Otherwise be intimidated into giving money or other thing of value;
- (2) Intentionally touching or causing physical contact with another person or an occupied vehicle without that person's consent in the course of soliciting, asking or begging;
- (3) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;
- (4) Using violent or threatening gestures toward a person solicited either before, during or after soliciting, asking or begging;
- (5) Persisting in closely following or approaching a person, after the person being solicited has been solicited and informed the solicitor by words or conduct that such person does not want to be solicited or does not want to give money or any other thing of value to the solicitor; or

- (6) Using profane, offensive or abusive language which is inherently likely to provoke an immediate violent reaction, either before, during, or after solicitation.

- (B) No person shall solicit in an aggressive manner (as defined in Section 11.08.040(A)) in any public place.

§ 11.08.050 EXEMPTIONS.

The provisions of Chapter 11.08 shall not be construed to prohibit:

- (A) The right to exercise protected free speech;
- (B) The lawful vending of goods and services;
- (C) Solicitations related to business authorized by or conducted by the property owner, business owner, or employees thereof on the premises;
- (D) Solicitations related to the lawful towing of a vehicle; or
- (E) Solicitations related to emergency repairs requested by the operator or other occupant of a motor vehicle.

§ 11.08.060 PENALTIES

- (A) **Misdemeanor.** Any person who violates Sections 11.08.030 and 11.08.040 of this chapter shall be guilty of a misdemeanor as provided in Chapter 1.01 of the Menifee Municipal Code.
- (B) **Administrative Citations.** Any person who violates 11.08.030 or 11.08.040 of this chapter shall be guilty of violating the City of Menifee Municipal Code and may be issued an administrative citation and be subject to the applicable punishments pursuant to Chapter 1.03 of the Menifee Municipal Code.
- (C) **Non-exclusivity.** Nothing in this Chapter shall limit or preclude the enforcement of any other applicable laws or remedies available for violations of this Chapter. “

Section 2. If any section, subsection, sentence or clause of this ordinance is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.


Section 3. The adoption of this ordinance is not a “project” subject to the requirements of the California Environmental Quality Act (CEQA). Pursuant to CEQA Guidelines section 15378(b)(4) the regulation is not a project within the meaning of CEQA because it establishes a prohibition that does not involve any commitment to any

specific project that may result in a potentially significant impact on the environment and therefore CEQA review is not required.

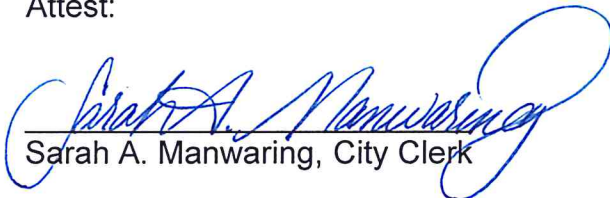
Section 4. This Ordinance shall take effect and be in full force and operation thirty (30) days after its adoption.

Section 5. The City Clerk shall certify to the passage and adoption of this Ordinance, and shall cause the same to be published within fifteen (15) days after passage in accordance with law, and shall cause this Ordinance and its certification to be entered in the Book of Ordinances of the City of Menifee.

The foregoing Ordinance was introduced and read on May 3, 2017 and was PASSED, APPROVED AND ADOPTED this 17th day of May, 2017.


Neil R. Winter, Mayor

Attest:


Sarah A. Manwaring, City Clerk

Approved as to Form:


Jeffrey T. Melching, City Attorney



Neil R. Winter
Mayor

Matthew Liesemeyer
Mayor Pro Tem

Greg August
Councilmember

Lesia A. Sobek
Councilmember

John V. Denver
Councilmember

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
CITY OF MENIFEE)

I, Sarah Manwaring, City Clerk of the City of Menifee, do hereby certify that the foregoing Ordinance No. 2017-210 was duly adopted by the City Council of the City of Menifee at a meeting thereof held on the 17th day of May, 2017 by the following vote:

Ayes:	August, Denver, Liesemeyer, Sobek, Winter
Noes:	None
Absent:	None
Abstain:	None


Sarah A. Manwaring, City Clerk