

ORDINANCE NUMBER 1386

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA ADDING A NEW CHAPTER (AGGRESSIVE SOLICITATION) TO TITLE 9 (PUBLIC PEACE, SAFETY, AND MORALS) OF THE PERRIS MUNICIPAL CODE

WHEREAS, the City of Perris utilizes the Riverside County Sheriff's Department as its Police Department; and

WHEREAS, the City of Perris Police Department received 153 calls for service regarding individuals engaged in solicitation in an aggressive manner within the City of Perris from April 2019 through September 2019 and which resulted in the need to send patrol cars to the location of where such aggressive behavior took place; and

WHEREAS, 23 of these calls for service regarding solicitation in an aggressive manner resulted in arrests; and

WHEREAS, solicitation in an aggressive manner by these arrested individuals included trespassing on private property; and

WHEREAS, the City of Perris has already enacted laws prohibiting disorderly conduct, trespassing, and sidewalk obstruction, and such laws are insufficient to deter instances of aggressive behavior by individuals soliciting within the City of Perris; and

WHEREAS, the City Council finds the increase in aggressive solicitation throughout the City has become extremely disturbing and disruptive to residents and businesses, and has contributed not only to the loss of access to and enjoyment of public places, but also to an enhanced sense of fear, intimidation, and disorder; and,

WHEREAS, the City Council finds those concerns apply equally with respect to solicitation which obstructs, impedes or interferes with the use of streets and public places; and,

WHEREAS, aggressive solicitation may include, without limitation, approaching or following pedestrians, repetitive soliciting despite refusals, unlawful attempts, coupled with a present ability, to commit a violent injury on the person solicited, willful and unlawful use of force or violence upon the person solicited, unlawful attempt to touch, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic; and,

WHEREAS, motorists also find themselves confronted by persons seeking money. Such persons may, without permission, wash a motorist's automobile windows at traffic intersections or attempt to open car doors or locate parking spaces, despite explicit indications by drivers not to do so, with the expectation the motorist pay the solicitor. Such activity carries with it an implicit threat to both persons and property and can create a danger to the solicitor and driver; and,

WHEREAS, this Ordinance is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation, and not to limit constitutionally protected activity; and,

WHEREAS, the purpose of this Ordinance is to address the above-mentioned effects of aggressive solicitation which are known to create fear or otherwise intimidate persons in the City of Perris, and is not intended to limit any persons from exercising their Constitutional right to solicit funds, picket, protest or engage in other constitutionally protected activity.

THE CITY COUNCIL OF THE CITY OF PERRIS HEREBY ORDAINS AS FOLLOWS:

Section 1. Recitals Incorporated. The foregoing Recitals are incorporated herein by reference as if set forth in full.

Section 2. CEQA. Based upon its own independent judgment and substantial evidence in the record of proceedings, the City Council finds and determines that, pursuant to CEQA Guidelines, Sections 15060(c)(2) and 15061(b)(3) the Ordinance is not subject to CEQA, because adoption of this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment nor will it have a significant effect upon the environment.

Section 3. New Chapter 9.65 (Aggressive Solicitation) of the Perris Municipal Code. A new Chapter 9.65 (Aggressive Solicitation) is hereby added to Title 9 (Public Peace, Safety and Morals) of the Perris Municipal Code to read in its entirety as follows:

“Chapter 9.65 Aggressive Solicitation

9.65.010 – Purpose and Intent.

- (a) It is the purpose and intent of this chapter to impose reasonable time, place, and manner limitations on solicitation, as defined herein, in order to protect the safety of the general public against aggressive solicitation while respecting the constitutional right to free speech.
- (b) The provisions of this chapter shall not be construed to prohibit:
 - (1) The right to exercise protected free speech;
 - (2) The lawful vending of goods and services;
 - (3) Solicitations related to business authorized by or conducted by the property owner, business owner, or employees thereof on the premises;
 - (4) Solicitations related to the lawful towing of a motor vehicle;

- (5) Solicitations related to emergency repairs requested by the operator or other occupants of a motor vehicle.

9.65.020 – Definitions.

Unless the context requires otherwise, the following words, when used in this chapter, shall have the meaning set forth in this section. Variants of defined terms shall be construed in the same manner as the defined terms themselves.

- (a) “Aggressive manner” shall mean any of the following:
 - (1) Intentionally or recklessly touching or causing any physical contact with another person or an occupied motor vehicle without that person’s consent before, during or after soliciting;
 - (2) Intentionally or recklessly blocking or interfering with the safe or free passage of a pedestrian or motor vehicle by any means before, during or after soliciting, including unreasonably requiring a pedestrian or motor vehicle operator to take evasive action to avoid physical contact with the person making the solicitation;
 - (3) Using violent or threatening gestures toward a person solicited either before, during or after soliciting;
 - (4) An unlawful attempt, coupled with a present ability, to commit a violent injury on the person solicited either before, during or after soliciting; or
 - (5) Any willful and unlawful use of force or violence upon the person solicited either before, during, or after soliciting.
- (b) “Median” shall mean a paved or planted area of the public right-of-way that divides a street or highway according to the direction of travel.
- (c) “Motor vehicle” means any propelled vehicle or vehicle drawn by a power other than muscular strength, other than a motorized wheelchair.
- (d) “Public place” means a place to which the public or a substantial group of persons has access, and includes, without limitation, any alley, bridge, driveway, street, highway, freeway off-ramp, freeway on-ramp, sidewalk, median, parking lot, public parking garage, plaza, transportation facility, school, place of amusement, park, playground, restroom, 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.
- (e) “Solicit” shall mean asking for money or objects of value, with the intention that the money or object be transferred at that time and at that place.

Soliciting shall include using the spoken, written, or printed word, bodily gestures, signs, or other means with the purpose of obtaining an immediate donation of money or other things of value or soliciting the sale of goods or services.

9.65.030 – Aggressive solicitation prohibited.

No person shall solicit in an aggressive manner in any public place.

9.65.040 – Solicitation prohibited in Medians.

No person shall solicit upon any median or in any manner or location that is inconsistent with the provisions of the California Vehicle Code.

9.65.050 – Penalty.

- (a) Misdemeanor. Any person who violates any provision of this chapter shall be guilty of a misdemeanor or infraction pursuant to Chapter 1.16 of this code.
- (b) Remedies cumulative. Nothing in this chapter shall limit or preclude the enforcement of any other applicable laws or remedies available for violations of this Chapter.”

Section 4. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.

Section 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portions thereof, irrespective of the fact that anyone or more sections, subsections, subdivisions, sentences, clauses, phrases or portions thereof be declared invalid or unconstitutional.

Section 6. Certification. The City Clerk shall certify as to the passage and adoption of this Ordinance, shall make a minute of the passage and adoption thereof in the records of and the proceedings of the City Council at which the same is passed and adopted, and shall cause a summary of this Ordinance to be published in accordance with Government Code section 36933 in a newspaper of general circulation which is hereby designated for that purpose.

ADOPTED, SIGNED and **APPROVED** this 10th day of December, 2019.

Michael M. Vargas, Mayor

ATTEST:

Nancy Salazar, City Clerk

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)
CITY OF PERRIS)

I, Nancy Salazar, City Clerk of the City of Perris that the foregoing Ordinance Number 1386 was duly introduced by the City Council of the City of Perris at a regular meeting of said Council held on the 12th day of November 2019 and was duly adopted by the City Council of the City of Perris at a regular meeting of said Council at a regular meeting of said Council held on the 10th day of December, 2019, and that it was so adopted by the following vote:

AYES: RABB, ROGERS, MAGAÑA, CORONA, VARGAS
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

Nancy Salazar, City Clerk