

ORDINANCE NO. 2024-407

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALABASAS, CALIFORNIA, AMENDING AND RESTATING CHAPTER 9.08 OF THE CALABASAS MUNICIPAL CODE TO PROHIBIT CERTAIN AGGRESSIVE AND UNSAFE FORMS OF SOLICITATIONS THAT ARE A THREAT TO PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALABASAS, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Environmental Determination. The City Council hereby finds and determines that it can be seen with certainty that there is no possibility that the adoption of this ordinance to regulate its public parks and centralize and codify its rules concerning its parks will have a significant effect on the environment. Accordingly, under the provisions of Section 15061(b)(3) and Section 15378(b)(5) of Division 6 of Title 14 of the California Code of Regulations, the CEQA Guidelines, the adoption of this ordinance is not subject to the requirements of the California Environmental Quality Act.

SECTION 2. The City Council hereby amends and restates Chapter 9.08 of the Calabasas Municipal Code to read as follows:

Chapter 9.08

AGGRESSIVE AND UNSAFE SOLICITING

9.08.010 Title.

The ordinance codified in this chapter is known as "Aggressive and Unsafe Soliciting."

9.08.020 Authority and purpose.

- A. This chapter is adopted pursuant to the authority granted to the City of Calabasas in Article XI, Section 7 of the California Constitution.
- B. The purpose of this chapter is to protect the safety and welfare of City residents and the public, and to improve the quality of life and economic vitality of the City by imposing regulations against aggressive and unsafe soliciting. This chapter imposes reasonable time, place, and manner limitations on aggressive and unsafe soliciting while respecting the constitutional rights of free speech for residents and the public.

9.08.030 Findings.

The City Council hereby finds, determines, and declares that:

- A. Solicitations made in an aggressive manner are unsafe and disruptive to persons in the City of Calabasas and are a threat to public health, safety, and general welfare. Aggressive solicitations typically include following or approaching pedestrians or motorists, the use of abusive language, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic.
- B. An increase in aggressive solicitation throughout the City has become extremely disturbing and disruptive to visitors to the City, 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.
- C. Aggressive solicitation from people in locations where they are a “captive audience” makes it impossible or difficult for them to exercise their own right to decline to listen to or to avoid solicitation from others is problematic, detracts from the rights of persons in the City to quietly enjoy public facilities, and presents a risk to the health, safety and welfare of the public. Such places include public transportation vehicles and their designated locations for stops, as well as gas stations and dining establishments.
- D. The presence of individuals who solicit money from persons at or near banks or automated teller machines is especially threatening and dangerous. Such activity often carries with it an implicit threat to both person and property. Restricting solicitation in such places will provide balance between the rights of solicitors and the rights of persons who wish to decline or avoid such solicitations, and will help avoid or diminish the threat of violence in such unwarranted and unavoidable confrontations.
- E. Aggressive solicitation on roadway median strips, at traffic intersections, in the public roadway, freeway ramps, and lingering and loitering on a median are unsafe and hazardous for solicitors, drivers, pedestrians, and the general public. Aggressive soliciting such places increases the risk of drivers becoming distracted from their primary duty to safely operate their motor vehicle and watch traffic. This may result in traffic collisions, collisions with pedestrians, congestion and blockage of streets, and delay the free flow of travel, all of which constitute substantial traffic safety concerns.

- F. The practice of aggressive solicitation near driveways accessing schools, freeways, shopping centers, retail, business establishments, religious assemblies, police stations, and fire stations, and within parking lots and structures is unsafe and hazardous for solicitors, drivers, pedestrians, and the general public. The location of the solicitor near the driveway compromises the solicitor's safety, impedes visibility, and impairs the driver's ability to safely enter and exit. Drivers also become distracted from their duty to operate their motor vehicle and watch traffic, which may result in traffic collisions, collisions with pedestrians, congestion and blockage of streets, and delay the free flow of travel, all of which constitute substantial traffic safety concerns. Safety concerns of a solicitor near the driveway of police and fire stations are amplified because first responders are regularly leave these stations in an abrupt and urgent manner to respond to emergencies within the area.
- G. The Council's intent in enacting this chapter is not to interfere with the exercise of First Amendment rights of those engaged in solicitation in certain locations within the City. This chapter is meant to minimize the safety hazards of those in such areas as well as the drivers and passengers in vehicles sharing the roadway.
- H. The restrictions of this chapter are content-neutral and are narrowly tailored to serve a significant governmental interest, but still provide alternative avenues of communication.
- I. The reasonable time, place and manner restrictions in this chapter avoid the negative effects of aggressive solicitation and solicitation in unsafe places and will not unreasonably restrict free speech of people engaged in solicitation.
- J. Whenever any reference is made herein to any local law or regulation or to any state or federal statute, regulation or other law, the reference includes any subsequent amendment or superseding provision of such statute, regulation or law.

9.08.040 Definitions.

As used in this chapter, the following words and phrases shall have the following meanings, unless the context shall indicate another meaning or intent:

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

“Aggressive manner” means any of the following:

- A. Conduct intended or likely to cause a reasonable person to fear bodily harm to oneself or to another, damage to or loss of property, or otherwise be intimidated into giving money or other things of value;
- B. Intentionally touching or causing physical contact with another person or an occupied vehicle without that person’s consent;
- C. Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or motor vehicle operator to take evasive action to avoid physical contact;
- D. Using violent or threatening gestures towards a pedestrian or motor vehicle;
- E. Persisting in closely following or approaching a person or motor vehicle, the person having informed a solicitor that such person does not want to be solicited or does not want to give money or anything of value to the solicitor;
- F. Approaching an occupied vehicle by entering into a public street or private roadway when traffic is either stopped or moving, before, during, or after soliciting; or
- G. Continuing to solicit a person after the person has given a negative response to the solicitation.

“Automated teller machine” or “ATM” means any electronic information processing device that accepts or dispenses cash in connection with a credit, deposit, or convenience account.

“Automated teller machine facility” means the area comprised of one or more automated teller machines, and any adjacent space that is made available to banking customers both during and after regular business hours.

“Bank” means any member bank of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operated under the laws of the United States, and any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

"Business" means and includes any type of product, goods, service, performance or activity which is provided or performed, or offered to be provided or performed, in exchange for money, labor, goods or any other form of consideration.

"Check cashing business" means any person duly licensed as a check server, bill payer, or prorated pursuant to California Financial Code Section 1200 et seq., as may be amended.

"Credit union" means any Federal credit union and any State-chartered credit union the accounts of which are insured by the Administrator of the National Credit Union Association.

"Donation" means a gift of money or other item of value.

"Financial institution" includes a bank, savings and loan association, credit unions, and check cashing businesses.

"Median" means a paved or planted area of a public right-of-way that divides a street or highway according to the direction of travel.

"Motor vehicle" means any propelled vehicle or vehicle drawn by a power other than muscular power, other than a motorized wheelchair.

"Religious assembly" or "religious assemblies" means a building or space is used primarily for persons to conduct worship or other religious ceremonies including.

"Parking lot or structure" means privately owned property which is designated or used primarily for the parking of vehicles and which adjoins one or more commercial establishments.

"Peace officer" has the same meaning as Chapter 4.5 of Title 3 of the California Penal Code (commencing with Penal Code § 830).

"Public place" means a place to which the public or a substantial group of persons has access, and includes, without limitation, any street, highway, freeway ramp, sidewalk, median, parking lot or structure, plaza, transportation facility, school, place of amusement, park, playground, and any doorway, entrance, hallway, lobby, or other portion of any business establishment.

"Public transportation vehicle" means any vehicle, including a trailer bus or train, designed, used, or maintained for carrying 10 or more persons, including the driver;

or a passenger vehicle designed for carrying fewer than 10 persons, including the driver, and used to carry passengers for hire.

“Savings and loan associations” means any Federal savings and loan association and any “insured institution” as defined in Section 401 of the National Housing Act, as amended, and any Federal credit union as defined in Section 1752 of the Federal Credit Union Act, as amended.

“School” means any means any private or public elementary school, middle school, junior high school, high school, senior school, continuation school, university, college, community college, or any branch thereof.

“Solicit” means the use of spoken, written, or printed words, or bodily gestures, signs, props, musical instruments, or other methods for the purpose of obtaining a direct and immediate receipt of money or other thing of value or soliciting the direct and immediate sale of goods or services. “Solicit” or “soliciting” shall not include such activities that merely involve communications and informational exchanges that do not involve or call for the direct and immediate receipt of money or other thing of value.

“Solicitor” means one who solicits.

9.08.050 Aggressive solicitations prohibited.

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

9.08.060 All solicitations prohibited at specified locations.

- A. Financial institutions and automated teller machines. No person shall solicit:
1. Within 25 feet of any entrance or exit of any financial institution during its business hours.
 2. Within 25 feet of any automated teller machine, automated teller machine facility, or person standing in line to use any automated teller machine or facility during the time it is available for customers’ use. When an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility.
 3. Within an automated teller machine facility where a reasonable person would or should know that he or she does not have permission to do so from the owner or person lawfully in possession of such facility.

- B. Public transportation vehicle and stops. No person shall solicit in any public transportation vehicle or within 50 feet of any designated or posted public transportation vehicle stop.
- C. 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 a fuel pump.
- D. Driveways.
1. 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 school, religious assembly, shopping center, retail establishment, business establishment, or public parking lot or structure.
 2. No person shall solicit from an operator or occupant traveling in a motor vehicle while such vehicle is located within 50 feet of a driveway providing vehicular access to a law enforcement station or fire station.
- E. Median strips. Except as otherwise permitted by law, it is unlawful for any person to solicit or loiter in or on any median, or in any manner or location that is inconsistent with the provisions of the California Vehicle Code.
1. For the purposes of this section, "loiter" shall mean to linger or remain in or on a median strip for any purpose unrelated to safely crossing a street or other roadway, except in an emergency.
 2. This section shall not apply to authorized government personnel or contractors who are repairing or maintaining the median strip, the right-of-way of a freeway, or the adjacent roadway.
- F. Freeways. Except as otherwise permitted by law, it is unlawful for any person to solicit or loiter in or on any right-of-way of any freeway, including any on ramp, off ramp, or roadway shoulder; any roadway or adjacent shoulder; or any sidewalk vending or attempting to vend to vehicular traffic, or in any manner or location that is inconsistent with the provisions of the California Vehicle Code.
- G. Parking lots or structures.
1. No person shall solicit, or attempt to solicit, in any public parking lot or structure any time after dark.
 2. No person shall solicit, or attempt to solicit, while located on medians or sidewalks, or within feeder lanes in a public parking lot or structure.

- H. Moving vehicles. It is unlawful for any person, while the occupant of a moving vehicle, to solicit, or attempt to solicit, from a person who is within the public right-of-way, including but not limited to, a public street, highway, freeway onramp, sidewalk, driveway, or median.
- I. Dining establishments. Any person who solicits in any outdoor or indoor dining area of a restaurant or other dining establishment serving food for immediate consumption.

9.08.070 Exemptions.

The provisions of this chapter 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 or conducted by the property owner, business owner, or employees thereof of the premises.
- D. Solicitations related to the lawful towing of a vehicle.
- E. Solicitations related to emergency repairs requested by the operator or occupant of a motor vehicle.
- F. Solicitations expressly authorized by an owner, manager, operator, supervisor of an establishment or property subject to the restrictions in this chapter, or the agent or a member of a security force employed by such persons, or by a peace officer acting at the request of any of the persons specified in this subdivision.
- G. Solicitations expressly authorized by an owner, driver, or operator of a vehicle subject to the restrictions in this chapter, or the agent or a member of a security force employed by such persons, or by a peace officer acting at the request of any of the persons specified in this subdivision.

9.08.080 Penalties.

Every violation of this chapter is an infraction pursuant to section 1.16.020 of this Code, except that a violation may be charged as a misdemeanor after five or more convictions for violation of any provision of this chapter within a 36-month period.

9.08.090 Regulations nonexclusive.

The provisions of this chapter are not intended to be exclusive and nothing in this chapter in any way limits or precludes the enforcement of any other applicable laws, or any other remedy that may be available to the City for conduct that violates this chapter.

SECTION 4. Severability. If any section, subsection, 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 of the City of Calabasas hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 5. Effective Date: This Ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code Section 36937 and shall supersede any conflicting provision of any City of Calabasas ordinance.

SECTION 6. Certification: The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2024.

Alicia Weintraub, Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa Pope
City Clerk

Matthew T. Summers
City Attorney
Colantuono, Highsmith & Whatley