

ORDINANCE NO. 2018-04

AN ORDINANCE OF THE CITY OF EASTVALE, CALIFORNIA, ADDING CHAPTER 8.19, PROHIBITING “AGGRESSIVE SOLICITATION” AND SOLICITATION, LINGERING AND LOITERING IN CERTAIN PUBLIC PLACES, TO THE EASTVALE MUNICIPAL CODE.

THE CITY COUNCIL OF THE CITY OF EASTVALE DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The addition of the new Chapter 8.19 prohibiting “aggressive solicitation” and solicitation, lingering and loitering in certain public places in the City of Eastvale under Title 8, Public Morals and Safety.

Chapter 8.19: PROHIBITING “AGGRESSIVE SOLICITATION” AND SOLICITATION, LINGERING AND LOITERING IN CERTAIN PUBLIC PLACES

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8.19.010 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 Eastvale and are a threat to public health, safety, and general welfare. Aggressive solicitations typically include approaching or following pedestrians, the use of abusive language, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic.

- b) An increase in aggressive solicitation and solicitation in certain locations throughout the City has become extremely disturbing and disruptive to residents and businesses, and has contributed not only to the loss of enjoyment of public places, but also to an enhanced sense of fear, intimidation, and disorder.
- c) Solicitation from people in places where they are a “captive audience” in which it is 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 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, public restrooms, outdoor dining areas, and parking lots.
- 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) Solicitation on roadway median strips, at traffic intersections, in the public roadway, and lingering and loitering on a median are unsafe and hazardous for solicitors, drivers, pedestrians, and the general public. Soliciting on roadway median strips, at traffic intersections, and in the public roadway increase 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, congestion and blockage of streets, and delay the free flow of travel, all of which constitute substantial traffic safety concerns.
- f) The practice of solicitation near driveways accessing shopping centers, retail, and business establishments is unsafe and hazardous for solicitors, drivers, pedestrians, and the general public. The location of the panhandler or 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, congestion, blockage of streets, and delay the free flow of travel, all of which constitute substantial traffic safety concerns.
- g) 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. The Council’s intent in enacting this chapter is not to interfere with the exercise of first amendment rights of those engaged in lawful solicitation.

- h) The reasonable time, place, manner restrictions in this chapter avoid the negative effects of aggressive panhandling or solicitation in unsafe places and will not unreasonably restrict free speech of people engaged in solicitation.

8.19.020 Authority and Purpose.

- a) This chapter is adopted pursuant to the authority granted to the City of Eastvale in Article XI, Section 7 of the California Constitution.
- b) The purpose and intent of this chapter is to protect public health, safety, and the general welfare of people in the City of Eastvale and improve the quality of life and economic vitality of the City of Eastvale by imposing reasonable time, place, manner, restrictions on certain forms of solicitation while respecting the constitutional rights of free speech for all citizens as further described in the findings set forth in Section 8.19.010.
- c) The California Supreme Court has held such regulation of solicitation does not violate the liberty of speech clause of the California Constitution in the case of *Los Angeles Alliance for Survival v. City of Los Angeles*.

8.19.030 Applicability.

The provisions of this chapter shall apply generally to all public places throughout the City wherein any of the conditions specified in this chapter are found to exist; provided, however, that any condition that constitutes a violation of this chapter, but which is permitted or authorized under any local, state, or federal law, shall not be deemed to violate this chapter.

8.19.040 Definitions.

As used in this chapter, the following words, terms and phrases shall have the following meanings, unless a different meaning is apparent from the context or is specified elsewhere in this chapter.

- a) “After dark” means any time from one-half hour after sunset to one-half hour before sunrise.
- b) “Aggressive manner” means any of the following:

- 1) 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;
 - 2) Intentionally touching or causing physical contact with another person or an occupied vehicle without that person's consent;
 - 3) Intentionally blocking or interfering with the safe or free passage of a person walking, bicycling or driving a vehicle by any means, including unreasonably causing said person to take evasive action to avoid physical contact;
 - 4) Using violent or threatening gestures towards a person walking, bicycling or driving a vehicle;
 - 5) Persisting in closely following or approaching a person or motor vehicle, after the person has 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.
- c) "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.
- d) "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.
- e) "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.
- f) "Check cashing business" means any person permitted by the California Attorney General as a check casher pursuant to California Civil Code Section 1789.30 *et seq.*, as may be amended.
- g) "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.
- h) "Donation" means a gift of money or other item of value.

- i) “Financial institution” means a bank, savings and loan association, credit union, or check cashing business.
- j) “Linger” or “loiter” means to stay in a median for longer than two traffic signal cycles, except in an emergency.
- k) “Median” means a painted, paved, raised concrete, or planted area of a public right-of-way that divides a street or highway according to the direction of travel.
- l) “Motor vehicle” means any propelled vehicle or vehicle drawn by a power other than muscular power, other than a motorized wheelchair.
- m) “Public place” means a place to which the public or a substantial group of persons has access, and includes, without limitation, any street, highway, sidewalk, median, trail, parking lot, plaza, transportation facility, school, place of amusement, park, playground, and any doorway, entrance, hallway, lobby, or other portion of any business establishment open to the public generally.
- n) “Public transportation vehicle” means any vehicle, including a trailer bus, or train, designed, used, or maintained for carrying ten (10) or more persons, including the driver; or a passenger vehicle designed for carrying fewer than ten (10) persons, including the driver, and used to carry passengers for hire.
- o) “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.
- p) “Solicit” means to ask, beg, request, or panhandle using spoken, written or printed word, or bodily gestures, sign language, 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.
- q) “Solicitor” means one who solicits as defined in subsection (p) of this section.

8.19.050 Aggressive Solicitations Prohibited.

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

8.19.060 All Solicitations Prohibited at Specified Locations; Linger and Loitering Prohibited on Medians.

- a) Financial institutions and automated teller machines. No person shall solicit within twenty-five (25) feet of any entrance or exit of any financial institution during its business hours, or within twenty-five (25) feet of any automated teller machine during the time it's 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. No person shall solicit 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) Parking lots. No person shall solicit in any public parking lot or structure any time after dark.
- c) Public transportation vehicle and stops. No person shall solicit in any public transportation vehicle or within fifty (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 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.
 - 1) No person shall linger or loiter on a median as these locations are not intended or designed to provide accessibility or safety to a person on roadways.
 - 2) No person shall solicit upon any median 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 which applies to food courts or other areas where diners from multiple establishments share seating, without the express permission of the operator of the dining establishment.
- h) No person shall solicit in any restroom open to the public.

8.19.070 Exemptions.

The provisions of this section shall not be construed to prohibit:

- a) The right to exercise protected free speech.
- b) Solicitations related to a business which is being conducted on the subject premises by the owner or lawful tenants.
- c) Solicitations authorized by the property owner or a lawful tenant 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.

8.19.080 Penalty.

- a) Misdemeanor. Any Person who violates Sections 8.19.050 and 8.19.060 of this chapter shall be guilty of a misdemeanor or infraction as provided in Section 1.01.220 of Title 1 of the Eastvale Municipal Code.
- b) 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, including but not limited to, the enforcement of the provisions of Title 1 of the Eastvale Municipal Code.

SECTION 2: EFFECTIVE DATE: This Ordinance shall become effective 30 days after final passage thereof.

SECTION 3: SEVERABILITY: If any section, subsection, sentence, clause, or phrase 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 the Ordinance. The Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, and phrase, hereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases hereof be declared invalid or unconstitutional.

SECTION 4: POSTING: The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall cause the same to be published immediately after its passage at least once in a newspaper of general circulation circulated in the City.

PASSED, APPROVED AND ORDAINED this 11th day of April, 2018.



Clint Lorimore, Mayor

APPROVED AS TO FORM:



Erica Vega, City Attorney

ATTEST:



Steven Aguilar, Assistant City Clerk

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF EASTVALE)

I, Steven D. Aguilar, Assistant City Clerk of the City of Eastvale, California, do hereby certify that the foregoing Ordinance No. 2018-04, was introduced at a regular meeting of the City Council of the City of Eastvale held on the 25th day of April, 2018 and was passed by the City Council of the City of Eastvale at a regular meeting held the 9th day of May, 2018, by the following vote:

AYES: Council Members Plott, Rush, Tessari, Mayor Pro Tem Rigby, Mayor Lorimore

NOES: None

ABSENT: None

ABSTAIN: None



Steven D. Aguilar, Assistant City Clerk