

FREEDOM FROM RELIGION *foundation*

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August 1, 2017

SENT VIA EMAIL & U.S. MAIL
legalassistant@cityofmenominee.net

Robert J. Jamo, Esq.
City Attorney
City of Menominee
2511 10th Street
Menominee, MI 49858

Re: Unconstitutional promotion of religion

Dear Mr. Jamo:

Our national organization, which works to protect the constitutional separation of state and church, has contacted you previously about constitutional concerns in the City of Menominee. You may recall correspondence over the nativity display. We write again regarding an issue with the upcoming Waterfront Festival. If you no longer represent the City, please let me know by Wednesday, August 2.

A concerned local resident informed us that Menominee's 35th Annual Waterfront Festival schedule includes an "Outdoor Church Service" at 10am this Sunday, August 6.¹ The event website says the annual festival is "Sponsored by the City of Menominee,"² and lists the contact as "Menominee City Hall." Please see the enclosed screenshot. The festival is also advertised on the City's website with a link to the event page. Please see the enclosed screenshot.

We write to request that the City refrain from scheduling, advertising, or otherwise sponsoring a church service at this year's festival and in the future.

It is a fundamental principle of Establishment Clause jurisprudence that the government cannot in any way promote, advance, or otherwise endorse religion. The Supreme Court has said time and again that the First Amendment "mandates governmental neutrality between religion and religion, and between religion and nonreligion." *McCreary County, Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *Everson v. Bd. of Educ. of Ewing*, 330 U.S. 1, 15–16 (1947). The government must remain neutral toward religion because the "preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere." *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 310 (2000) (quoting *Lee v. Weisman*, 505 U.S. 577, 589 (1992)).

¹ <http://menomineewaterfrontfestival.com/2017%20SCHEDULE.pdf> (last accessed July 31, 2017).

² <http://menomineewaterfrontfestival.com/> (last accessed July 31, 2017).

The City has a constitutional obligation to remain neutral toward religion. By explicitly sponsoring the festival the City implicitly sponsors each event that occurs at the festival, including the church service. Sponsorship of a religious message by a government entity “is impermissible because it sends the ancillary message to [attendees] who are nonadherents ‘that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.’” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309–10 (2000) (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688) (O’Connor, J., concurring). Such sponsorship alienates Menominee residents whose religious beliefs are inconsistent with the message being promoted by the church service, including the 23% of American adults—and 35% of millennials—who are nonreligious.³

We request that the City of Menominee refrain from sponsoring, scheduling, or advertising, in any manner, any religious service at this year’s festival and at all future ones. Please inform us in writing of the steps you take to ensure that this constitutional violation does not occur.

Sincerely,



Rebecca S. Markert
Staff Attorney

RSM:rac

Enclosure

³ *America’s Changing Religious Landscape*, PEW RESEARCH CENTER (May 12, 2015), available at www.pewforum.org/2015/05/12/americas-changing-religious-landscape/.

Menominee Waterfront Festival

Sponsored by the City of Menominee, MI

Join us for the 35th Annual Waterfront Festival on August
3-6, 2017

[SCHEDULE \(PDF\)](#)

[2017 Parade Entry Form \(PDF\)](#)

For information, contact Menominee City Hall
906-863-2656

This page will be updated frequently as the Festival approaches.

