

ORDINANCE NO. 002-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUBA CITY
ADDING CHAPTER 22 TO TITLE 4 OF THE YUBA CITY MUNICIPAL CODE RELATING
TO THE PROHIBITION OF AGGRESSIVE AND UNSAFE PANHANDLING

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

Section 1. Chapter 22 of Title 4 is hereby added to the Yuba City Municipal Code to read as follows:

CHAPTER 22

AGGRESSIVE AND UNSAFE PANHANDLING

Sections:

4-22.010	Purpose and Findings
4-22.020	Definitions
4-22.030	Prohibited Panhandling
4-22.040	Penalty
4-22.050	Severability

Section 4-22.010 Purpose and Findings.

A. The purpose and intent of this chapter is to protect the safety and welfare of the general public and improve the quality of life and economic vitality of the City of Yuba City by imposing reasonable time, place, and manner restrictions on aggressive, intrusive or unsafe panhandling while respecting the constitutional rights of free speech for all citizens.

B. Aggressive and intrusive panhandling typically includes approaching or following pedestrians, the use of abusive language, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic. The City Council finds that an increase in aggressive panhandling throughout the City has become disturbing and disruptive to residents and businesses and has contributed not only to the loss of access to and enjoyment of places open to the public, but has also created an enhanced sense of fear, intimidation and disorder.

C. The City Council finds that panhandling 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 panhandling from others, is problematic 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 gasoline

stations. The City Council further finds that the presence of individuals who panhandle 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 panhandling in such places will provide a balance between the rights of panhandlers and the rights of persons who wish to decline or avoid such panhandlings, and will help avoid or diminish the threat of violence in such unwarranted and unavoidable confrontations.

D. The City Council finds that panhandling on roadway median strips, at traffic intersections, and in the public roadway is unsafe and hazardous for panhandlers, drivers, pedestrians, and the general public. Panhandling on roadway median strips, at traffic intersections, and in the public roadway increases the risk of drivers becoming distracted from their primary duty to watch traffic which may result in automobile accidents, congestion and blockage of streets, and delay and obstruction of the free flow of travel, all of which constitute substantial traffic safety problems.

E. The City Council further finds that the practice of panhandling near driveways accessing shopping centers, retail, and business establishments is unsafe and hazardous for panhandlers, drivers, pedestrians and the general public. The location of the panhandler near the driveway compromises the panhandler's safety, impedes visibility, and impairs a driver's ability to safely enter and exit. Drivers also become distracted from their duty to watch traffic which may result in automobile accidents, congestion and blockage of streets, and delay and obstruction of the free flow of travel, all of which constitute substantial traffic safety problems.

F. This law is timely and appropriate because current laws and City regulations are insufficient to address the aforementioned problems. The restrictions contained herein are neither overbroad nor vague and they are narrowly tailored to serve a substantial governmental interest. The goal of this law is to protect citizens from the fear and intimidation accompanying certain kinds of panhandling that have become an unwelcome presence in the City, and to protect the safety of the general public.

Section 4-22.020 Definitions.

For purposes of this chapter, the following words, terms and phrases shall have these definitions:

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

B. "Aggressive" shall mean any of the following:

1. Conduct intended or likely to cause a reasonable person to fear bodily harm to oneself or to another, to fear damage to or loss of property, or otherwise to 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;

3. Persisting in closely following or approaching a person, after the person has informed a panhandler that such person does not want to be panhandled or does not want to give money or any other thing of value to the panhandler;

4. Using violent or threatening gestures toward a person; or

5. Using profane, offensive or abusive language that is inherently likely to provoke an immediate reaction either before, during or after panhandling.

C. "Automated teller machine" (ATM) shall mean any electronic information processing device which accepts or dispenses cash in connection with a credit, deposit, or convenience account.

D. "Automated teller machine facility" shall mean the area comprised of one or more automated teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

E. "Bank" shall mean 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" shall mean any person duly licensed as a check seller, bill payer, or prorater pursuant to Division 3 of the California Financial Code, commencing with section 12000.

G. "Credit union" shall mean any federal credit union and any state-chartered credit union the accounts of which are insured by the Administrator of the National Credit Union Administration.

H. "Donation" shall mean a gift of money or other item of value.

I. "Financial institutions" for purposes of this chapter shall mean any of the following as defined herein: bank, savings and loan association, credit union, and/or check cashing business.

J. "Intrusive" shall mean to thrust or force oneself in without invitation, permission, or welcome and cause physical contact, block the path of travel, or behave in a threatening manner.

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

L. "Panhandling" shall mean to ask, beg, request 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 panhandling the direct and immediate sale of goods or services.

M. "Public place" shall mean a place to which the public or a substantial group of persons has access, and includes, but is not limited to, any street, highway, sidewalk,

parking lot, plaza, transportation facility, school, place of amusement, park, 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.

N. "Public transportation vehicle" shall mean 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.

O. "Savings and loan association" shall mean 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.

Section 4-22.030 Prohibited Panhandling.

A. No person shall panhandle in an aggressive or intrusive manner in any public place.

B. All panhandling is prohibited at the following specified locations:

1. Financial Institutions and Automated Teller Machines (ATMs). No person shall panhandle within an automated teller machine 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. No person shall panhandle within thirty-five (35) feet of any entrance or exit of any financial institution during its business hours or within thirty-five (35) feet of any automated teller machine 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.

These provisions shall not apply to any unenclosed automated teller machine located within any building, structure or space whose primary purpose or function is unrelated to banking activities, including but not limited to supermarkets, airports and school buildings, provided that such automated teller machine shall be available for use only during the regular hours of operation of the building, structure or space in which such machine is located.

2. Motor Vehicles. No person shall panhandle from an operator or occupant traveling in a motor vehicle while such vehicle is located within one hundred (100) feet of any intersection in which at least one corner is controlled by an official traffic signal of the type set forth in California Vehicle Code Section 21450 or by any sign regulating the flow of traffic, such as a stop sign or yield sign.

3. Median Strips. No person shall panhandle on a median strip or in any manner or location that is inconsistent with the provisions of the California Vehicle Code.

4. Driveways Accessing Shopping Centers, Retail, and Business Establishments. No person shall panhandle from an operator or occupant traveling in a motor vehicle while such vehicle is located within thirty-five (35) feet of a driveway providing vehicular access to a shopping center, retail, or business establishment.

5. Public Transportation Vehicles and Stops. No person shall panhandle in any public transportation vehicle or within fifty (50) feet of any designated or posted public transportation vehicle stop.

6. Gasoline Stations and fuel pumps. No person shall panhandle from an operator or occupant of a motor vehicle while such vehicle is stopped in a gasoline station or at a gasoline pump. This subsection (B) (6) shall not apply to panhandlings related to business authorized by and/or conducted by the property owner, business owner, or employees thereof on the premises.

C. No person shall panhandle in any place after dark. This section is not violated if a person who is panhandling is doing so: (1) on private property that is open to the public; and (2) with the express authorization of the owner, manager, or supervisor at the business operating at the property.

Section 4-22.040 Penalty.

A. Infraction: Any person who violates section 4-22.030 of this chapter shall be guilty of an infraction.

B. Misdemeanor: Any person who violates section 4-22.030 of this chapter more than two times within a six month period shall be guilty of a misdemeanor.

C. Nothing in this chapter shall limit or preclude the enforcement of any other applicable laws or remedies available for violations of this chapter.

Section 4-22.050 Severability.

The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, phrase, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

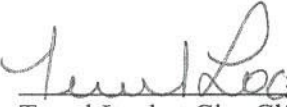
Section 2. This ordinance shall become effective thirty (30) days after its adoption. A summary of this ordinance shall be published once at least five (5) days prior to the adoption of this ordinance and once within fifteen (15) days after its adoption, in the Appeal Democrat, a newspaper of general circulation in the City of Yuba City.


Introduced and read at a regular meeting of the City Council of the City of Yuba City the 19th day of August, 2014 and adopted at a regular meeting thereof held on the 2nd day of September, 2014.

Ayes: Councilmembers Buckland, Dukes, Maan, Starkey and Mayor Gill
Noes: None
Absent: None



Kash Gill, Mayor

ATTEST:


Terrel Locke, City Clerk



Approved as to Form:


Tim Hayes, City Attorney