ORDINANCE NO. 1399

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA PROHIBITING PANHANDLING

TITLE IV—Public Welfare, Morals and Conduct CHAPTER 2—Other Violations

The City Council of the City of Arcata ordains as follows:

<u>Section 1</u>: Article 10—Unlawful Panhandling, sections 4280—4282, is hereby created and added to Title IV—Public Welfare; Morals and Conduct; Chapter 2—Other Violations, of the Arcata Municipal Code as follows:

ARTICLE 10—Unlawful Panhandling

SEC. 4280. Findings. The City Council finds as follows:

- 1. Within the last few years there has been a substantial increase in aggressive solicitation or panhandling throughout the City of Arcata as well as an increase in targeted panhandling in certain areas of the City.
- 2. Aggressive panhandling, which usually includes approaching or following pedestrians, the use of abusive language, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic, is extremely disturbing and disruptive to residents and businesses and contributes not only to the loss of access and enjoyment of public places, but also to an enhanced sense of fear, intimidation and disorder.
- 3. The increase of targeted panhandling at locations where residents are captive audiences, in which it is impossible or difficult for them to exercise their own right to decline to listen to or avoid solicitation from others, intimidates persons who are approached, interferes with privacy and security, impedes traffic flow, causes congestion, and negatively impacts businesses within the City. Such places include buses and bus shelters, parking lots, major intersections where cars and bicyclists must stop for traffic, and pedestrian foot bridges where pedestrians are unable to take an alternate route.
- 4. Aggressive and targeted panhandling of commercial customers as they enter and exit retail establishments, including restaurants, bars and cafes, has become increasingly disturbing to residents and business, has generated an enhanced sense of fear, intimidation and disorder, and has caused many retail customers to avoid shopping or dining within the City. This situation threatens the economic vitality of the City.
- 5. This law is timely and appropriate because current laws and City regulations are insufficient to address the above-mentioned problems. The restrictions contained herein are neither overbroad nor vague, and are narrowly tailored to serve a substantial governmental interest.

- 6. The goal of this law is to protect citizens from fear and intimidation accompanying certain kinds of solicitation that have become an unwelcome and overwhelming presence in the City, and to restore an atmosphere of mutual respect within the community.
- **SEC. 4281. Definitions.** For purposes of this Article, the following words shall have the following meaning, unless the context clearly indicates otherwise.

A. "Aggressive manner" shall mean:

- 1. Approaching or speaking to a person, or following a person before, during or after panhandling, if that conduct is likely to cause a reasonable person to:
 - (i) Fear bodily harm to oneself or to another, damage to or loss of property; or
 - (ii) Otherwise be intimidated into giving money, goods or other things of value.
- 2. Approaching an occupied vehicle by entering into the roadway when traffic is either stopped or moving, before, during or after panhandling;
- 3. Knocking on the window of, or physically reaching toward or into an occupied vehicle before, during or after panhandling;
- 4. Continuing to solicit from a person after the person has given a negative response to such panhandling;
- 5. Intentionally touching or causing physical contact with another person without that person's consent in the course of panhandling;
- 6. Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including causing a pedestrian or vehicle operator to take evasive action to avoid physical contact before, during or after panhandling;
- 7. Using violent or threatening gestures toward a person before, during or after panhandling;
- 8. Using profane, offensive or abusive language which is inherently likely to provoke an immediate violent reaction, either before, during or after panhandling;
- 9. Following a person while panhandling, with the intent of asking that person for money, goods or other things of value.
- B. "Automated teller machine" shall mean a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to, account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

- C. "Automated teller machine facility" shall mean the area comprised of one or more automatic teller machines, and any adjacent space that is made available to banking customers after regular banking hours.
- D. "Check cashing business" shall mean any person duly licensed by the Attorney General to engage in the business of cashing checks, drafts or money orders for consideration pursuant to Section 1789.31 of the California Civil Code.
- E. "Intersection" shall mean the intersection of the lateral curb lines, or if none, the lateral boundary lines of the roadway, of two roads that join one another at approximately right angles.
- F. "Panhandling" 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. Panhandling 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 thing of value.
- G. "Public place" shall mean a place where a governmental entity has title or to which the public or a substantial group of persons has access, including, but not limited to, any street, highway, parking lot, transportation facility, shopping center, school, place of amusement, park, or playground.
- **SEC. 4282. Unlawful Panhandling.** It is unlawful and a public nuisance for any person to:
 - A. Panhandle in an aggressive manner in any public place;
- B. Panhandle within twenty (20) feet of any check cashing business, or within twenty (20) feet of any automated teller machine; provided, however, that 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 facility;
- C. Panhandle within twenty (20) feet of the entrance to a supermarket, retail store, restaurant or bar;
- D. Panhandle in any public transportation vehicle, or within twenty (20) feet of a bus stop or bus shelter;
- E. Panhandle in any parking lot or parking structure accessible to the general public, or within twenty (20) feet of the entrance or exit to such parking lot or parking structure;
- F. Panhandling while on any public pedestrian foot bridge, or within twenty feet of the entrance or exit to a public pedestrian foot bridge; or
 - G. Panhandle within twenty (20) feet of any intersection.

Section 2: Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

<u>Section 3</u>: Article 9 of Chapter 2, Title IV of the Arcata Municipal Code is hereby recodified from section numbers 4560 and 4570 to section numbers 4260 and 4270, respectively.

<u>Section 4</u>: This ordinance will take effect thirty (30) days after the date of its adoption.

DATE: March 17, 2010	
ATTEST:	APPROVED:
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/s/ Randal J. Mendosa	/s/ Alexandra Stillman
City Clerk, City of Arcata	Mayor, City of Arcata

Clerk's Certificate

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 1399, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California on the 17th day of March, 2010, by the following vote:

AYES: STILLMAN, WHEETLEY, WINKLER

NOES: ORNELAS, BRINTON

ABSENT: **NONE**

ABSTENTIONS: NONE

/s/ Randal J. Mendosa City Clerk, City of Arcata