

# Before the Board of Supervisors County of Placer, State of California

**In the matter of:**

AN ORDINANCE AMENDING PLACER COUNTY CODE CHAPTER 9, PUBLIC PEACE, SAFETY AND WELFARE, BY ADDING ARTICLE 9.38 AGGRESSIVE PANHANDLING.

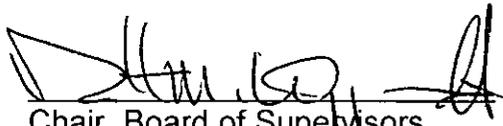
Ordinance No.: 5808-B

First Reading: January 5, 2016

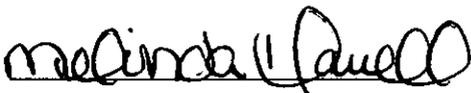
The following **ORDINANCE** was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held January 26, 2016, by the following vote on roll call:

Ayes:	DURAN, HOLMES, UHLER, MONTGOMERY, WEYGANDT
Noes:	NONE
Absent:	NONE

Signed and approved by me after its passage.

  
Chair, Board of Supervisors

Attest:  
Clerk of said Board



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THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA  
HEREBY FINDS AND DECLARES THE FOLLOWING:

**WHEREAS**, the County of Placer ("County") seeks to improve the quality of life and economic vitality of the County by protecting the public from certain abusive solicitation

and panhandling practices with the imposition of reasonable time, place and manner restrictions on solicitation and panhandling; and

**WHEREAS**, there is a duty to protect the health, safety, and welfare of the citizens of the County; and

**WHEREAS**, the County recognizes that panhandling and begging are protected by the First Amendment to the United States Constitution; and

**WHEREAS**, aggressive panhandling includes approaching or following pedestrians, the use of abusive language, unwanted physical contact or the intentional blocking of pedestrian or vehicular traffic; and

**WHEREAS**, the regulation of solicitation and panhandling set forth below is narrowly tailored to apply only to designated locations where solicitation and panhandling create the greatest risks due to generally higher pedestrian or vehicular traffic volume and congestion; and

**WHEREAS**, the presence of individuals who solicit or panhandle for money from persons at or near banks or automated teller machines or panhandle from people in places where it is impossible or difficult for them to exercise their own right to decline or to avoid solicitation or panhandling from others, is especially threatening and dangerous; and

**WHEREAS**, the panhandling prohibited by this ordinance constitutes a nuisance that deprives the citizens of the County of an acceptable environment in which they may live.

**NOW THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER ORDAINS AS FOLLOWS:**

**Section 1:** Chapter 9 Public Peace, Safety and Welfare is hereby amended to add Article 9.38, which shall read as follows:

**Article 9.38**  
**AGGRESSIVE PANHANDLING**

**SEC. 9.38.010 Purpose.**

A. The Board of Supervisors finds that aggressive panhandling for money or anything of monetary value directed at residents of and visitors to the County of Placer threatens public safety, impairs commercial activity and harms public welfare. Aggressive panhandling interferes with the public's inherent right to use and enjoy public places without fear of intimidation caused by those persons who harass others by asking for or demanding money or goods. Such conduct can undermine economic vitality by inconveniencing patrons and thus reduces shopping activity within the County. Such conduct can discourage visitors and prospective customers from coming to the County of Placer for business, shopping or recreation because it creates an atmosphere of discomfort and fear.

B. The Board of Supervisors further finds that the presence of individuals who panhandle at or near banks, automated teller machines, or in public transportation vehicles is especially troublesome because of the enhanced fear of crime in those confined environments. Likewise, persons panhandled in public at night have an enhanced fear of crime. Such activities carry with them an implicit threat to both persons and property.

C. The activity of panhandling occupants of vehicles distracts drivers from their primary duty to watch traffic and pedestrians and to be alert for potential hazards in the roadway, to observe all traffic control signals, signs or warnings, and to be prepared to move through the County's streets and intersections.

D. This article is not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest or engage in other constitutionally protected activity. Rather, its goal is to protect citizens from the fear and intimidation accompanying certain kinds of panhandling and solicitation.

#### **SEC. 9.38.020 Definitions.**

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

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

C. "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 after regular banking hours.

D. "Bank" means any member 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.

E. "Check cashing business" means 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.

F. "Credit union" means any federal credit union and any state-chartered credit union the accounts of which are insured by the National Credit Union Administration Board, and any federal credit union as defined in Section 2 of the Federal Credit Union Act.

G. "Outdoor dining area" means an outdoor or indoor dining area of a restaurant or other establishment serving food for immediate consumption.

H. "Panhandle, solicit, ask or beg" means to make a request in person seeking an immediate donation of money or other item of monetary value from another person (regardless of the panhandler's purpose or intended use of the money or other thing of monetary value), without offering a clearly identifiable good or service in return.

I. "Public place" means 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, alley, bridge, driveway, parking lot, building, 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, hotel or motel not constituting a room or apartment designed for actual residence.

J. "Public transportation vehicle" means any vehicle, including a trailer bus, 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.

K. "Savings and loan association" means: (1) a federal savings association or state savings association (as defined in Section 3(b) of the Federal Deposit Insurance Act) having accounts insured by the Federal Deposit Insurance Corporation; and (2) a corporation described in Section 3(b)(1)(C) of the Federal Deposit Insurance Act that is operating under the laws of the United States.

**SEC. 9.38.030 Aggressive Panhandling Prohibited.**

A. No person shall panhandle, solicit, ask or beg in an aggressive manner in any public place.

B. "Aggressive manner" means any of the following:

1. Approaching or speaking to a person or following a person before, during or after panhandling, soliciting, asking or begging, if that conduct is intended or is likely to cause a reasonable person to (a) fear bodily harm to oneself or to another, damage to or loss of property; or (b) otherwise be intimidated into giving money or other thing of monetary value;

2. Intentionally touching or causing physical contact with another person or an occupied vehicle without that person's consent in the course of panhandling, soliciting, asking or begging;

3. Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;

4. Using violent or threatening gestures toward a person panhandled either before, during, or after panhandling, soliciting, asking or begging;

5. Persisting in closely following or approaching a person, after the person panhandled has been panhandled and informed the panhandler by words or conduct that such person does not want to be panhandled or does not want to give money or any other thing of monetary value to the panhandler; or

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

**SEC. 9.38.040 All Panhandling, Soliciting, Asking or Begging Prohibited at Specified Locations.**

A. Banks and ATMs. No person shall panhandle, solicit, ask or beg within 25 feet of any entrance or exit of any bank, savings and loan association, credit union, or check cashing business during its business hours or within 25 feet of any automated teller machine during the time it is available for customers' use. Nothing in this subsection shall be construed to prohibit: (1) the lawful vending of goods and services within such areas; or (2) panhandling, soliciting, asking or begging within the restricted area after obtaining the permission of the authorized owner, manager, or supervisor of the business operating at the building.

B. Entrances and Exits to any Building. No person shall panhandle, solicit, ask or beg within 25 feet of any entrance into or exit from any building open to the public other than those buildings subject to subsection (A)(1) of this section. This prohibition shall not apply if the authorized owner, manager, or supervisor of the business operating at the building grants permission to panhandle, solicit, ask or beg within the restricted area.

C. Public Transportation Vehicles and Stops. Any person who panhandles, solicits, asks or begs in any public transportation vehicle, or within 25 feet of any designated or posted public transportation vehicle stop, is guilty of a violation of this section if:

1. He or she remains there after being asked to leave by the owner, driver, or operator of a public transportation vehicle; the agent of the owner, driver or operator of a public transportation vehicle; the owner or manager of a public transportation facility; the agent of the owner or manager of a public transportation facility; a member of a security force employed by the public transportation facility; or by a peace officer, as defined in Chapter 4.5 of Title 3 of the California Penal Code (commencing with Penal Code Section 830); or
2. Within the immediately preceding 30 days, he or she engaged in panhandling at that location and had been asked to leave by a person specified in subsection (C)(1) of this section.

Subsection (C)(2) of this section is not violated if a person who has been requested to leave enters the property within the designated period and panhandles, solicits, asks or begs with the express authorization of a person specified in subsection (C)(1) of this section.

D. Restaurants. Any person who panhandles, solicits, asks or begs in any outdoor or indoor dining area of a restaurant or other establishment serving food for immediate consumption is guilty of a violation of this section if:

1. He or she remains there after being asked to leave by the owner, manager or supervisor of the restaurant or other food establishment; the agent of the owner, manager or supervisor of the restaurant; a member of a security force employed by the restaurant; or by a peace officer, as defined in Chapter 4.5 of Title 3 of the California Penal Code (commencing with Penal Code Section 830), acting at the request of any of the persons specified in this subdivision; or
2. Within the immediately preceding 30 days, he or she engaged in panhandling at that location and had been asked to leave by a person specified in subsection (D)(1) of this section.

Subsection (D)(2) of this section is not violated if a person who has been requested to leave enters the property within the designated period and panhandles, solicits, asks or begs with the express authorization of a person specified in subsection (D)(1) of this section.

E. Public Median Strips, Stop Signs and Traffic Signals. No person shall panhandle, solicit, ask or beg from any person by displaying a sign while located: (1) in any public median strip; or (2) within 100 feet of any stop sign or traffic signal open to the public.

**SEC. 9.38.050 All Panhandling, Soliciting, Asking or Begging Prohibited in Public After Dark.**

No person shall panhandle, solicit, ask or beg in any public place after dark. This section is not violated if a person who is panhandling, soliciting, asking or begging 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 of the business operating at the property.

**SEC. 9.38.060 Penalties.**

Violation of this article may be charged as either an infraction or a misdemeanor in the discretion of the District Attorney.

**SEC. 9.38.070 Severability**

The provisions of this article are hereby declared to be severable. If any provision, clause, word, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

**Section 2.** This ordinance shall take effect and be in full force thirty (30) days after the date of its passage. The Clerk is directed to publish this ordinance, or a summary thereof, within fifteen (15) days in accordance with government code section 25124.