

ORDINANCE NO. 692

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
COMMERCE ADDING CHAPTER 9.90 TO TITLE 9 OF THE  
COMMERCE MUNICIPAL CODE RELATING TO THE PROHIBITION  
AGAINST CERTAIN FORMS OF AGGRESSIVE AND UNSAFE  
PANHANDLING**

**WHEREAS**, pursuant to the California Constitution, all California cities have the power to create local ordinances that are not in conflict with general laws. This “police power” enables local governments to adopt regulations designed to promote general prosperity, particularly in regards to the public health, morals, and safety for its residents;

**WHEREAS**, the City of Commerce (“City”) Municipal Code (“Code”) does not contain a comprehensive or updated provision addressing the public safety issues that arise with aggressive panhandling;

**WHEREAS**, the City currently faces many challenges to personal and public safety because of aggressive panhandling throughout the City, most specifically wherein persons stand in dangerous places begging for money, or become aggressive against members of the public when begging for money;

**WHEREAS**, City staff observes this type of activity throughout the City, but the biggest public safety issue arises when panhandlers are on City streets, public intersections, other public right-of-ways meant for vehicular traffic, and near various businesses where direct, unwelcome contact is made with patrons;

**WHEREAS**, the Code currently does not have the necessary laws to be able to effectively regulate said activities.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** The above recitals are true and correct and are incorporated herein as if set forth in full, The above recitals constitute findings for the passage of this Ordinance.

**SECTION 2.** Chapter 9.90, “Prohibition Against Certain Forms of Aggressive and Unsafe Panhandling”, of Title 9, “Peace, Safety and Morals”, is hereby added to the Commerce Municipal Code to read as follows:

**CHAPTER 9.90**

**PROHIBITION AGAINST CERTAIN FORMS OF  
AGGRESSIVE AND UNSAFE PANHANDLING**

**Sections:**

- 9.90.010 - Purpose and findings.**
- 9.90.020 - Definitions.**
- 9.90.030 - Prohibited panhandling.**
- 9.90.040 - Penalty.**
- 9.90.050 - Severability.**

**9.90.010 - 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 of the City of Commerce 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.

#### **9.90.020 - Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *After dark* means any time from one-half hour after sunset to one-half hour before sunrise.
- (b) *Aggressive* means 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 in the course of panhandling, 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) 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;
- (5) Using violent or threatening gestures toward a person; or
- (6) 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)* means any electronic information processing device which 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 which is made available to banking customers after regular banking hours.
- (e) *Donation* means a gift of money or other item of value.
- (f) *Financial institutions* means any of the following: bank, savings and loan association, credit union, and/or check cashing business.
- (g) *Intrusive* means 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.
- (h) *Median strip* means a paved or planted area of public right-of-way that divides a street or highway according to the direction of travel.
- (i) *Panhandling* means 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.
- (j) *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, 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.
- (k) *Public transportation vehicle* means any vehicle, including a trailer bus, or train, designed, used or maintained for carrying ten or more persons, including the driver; or a passenger vehicle designed for carrying fewer than ten persons, including the driver, and used to carry passengers for hire.

#### **9.90.030 - 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 twenty (20) feet of any entrance or exit of any financial institution during its business hours or within twenty (20) 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 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 twenty (20) 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 twenty (20) 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.

#### **9.90.040 - Penalty.**

- (a) Any person who violates any provision of this chapter, or who causes, allows or permits said violation shall be punished pursuant to Chapter 1.12 (Penalty and Arrest Provisions) of this Commerce Municipal Code.
- (b) Nothing in this chapter shall limit or preclude the enforcement of any other applicable laws or remedies available for violations of this chapter.

#### **9.90.050 - Severability.**

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

**SECTION 3.** California Environmental Quality Act ("CEQA") Guidelines sections 15378(b)(2) and 15378(b)(5) provide that ongoing administrative activities and organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment do not constitute a "project" as defined by the CEQA Guidelines, and therefore are exempt from CEQA and no further environmental review is required. The City Council, therefore, hereby finds and determines that this Ordinance is not a "project" for purposes of CEQA and is exempt from further CEQA review pursuant to CEQA Guidelines sections 15378(b)(2) and 15378(b)(5).

**SECTION 4.** If any section, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by a decision or any court of competent jurisdiction,

such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, part or portion not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 5.** This ordinance shall become effective thirty (30) days after its adoption. The City Clerk shall certify to the adoption of this Ordinance causing it to be posted as required by law.

The City clerk shall certify to the adoption of this Ordinance and shall cause the same to be published or posted as required by law.

PASSED, APPROVED AND ADOPTED this 9<sup>th</sup> day of January 2018.

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Oralia Rebollo  
Mayor

**ATTEST:**

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Lena Shumway, City Clerk