

A BILL FOR AN ORDINANCE ADOPTING)	ORDINANCE BILL NO. 2016-2
CHAPTER 9.30 OF THE LEBANON)	
MUNICIPAL CODE REGARDING)	
AGGRESSIVE, INTRUSIVE AND UNSAFE)	ORDINANCE NO. 2871
PANHANDLING)	

THE CITY OF LEBANON ORDAINS AS FOLLOWS:

LMC 9.30 PROHIBITION AGAINST AGGRESSIVE, INTRUSIVE AND UNSAFE PANHANDLING

9.30.010 Findings and purpose.

- a) In enacting this chapter, it is the intent of the City Council of Lebanon to protect the safety and welfare of the general public by imposing regulations against unsafe panhandling. This chapter imposes reasonable time, place and manner restrictions on unsafe panhandling while respecting the constitutional rights of free speech for all citizens.
- b) The City Council, through evidence and testimony presented by the police department and the community, finds that panhandling on roadways, public transportation and public transportation stops, at traffic intersections and from any moving vehicle is unsafe, disturbing and disruptive to residents and transit-dependent residents.
- c) The City Council finds that the practice of panhandling for contributions from persons in vehicles in the public roadway from a median or near intersections subjects the panhandlers, pedestrians and vehicles to an unacceptable level of danger. Drivers become distracted from their primary duty to watch traffic which results in the delay and obstruction of the public's free flow of travel. These activities further result in the congestion and blockage of streets when such persons approach the vehicles to negotiate with the occupants. The most severe impacts are experienced when money or other items of value are directly and immediately exchanged, hand-to-hand, in the public right-of-way as a result of the solicitation. Distracted drivers are more prone to be involved in automobile accidents, and accidents on the public streets constitute a substantial traffic safety problem.
- d) The city council finds that the practice of panhandling near driveways accessing shopping centers, retail and business establishments presents an unacceptable level of danger for panhandlers, pedestrians and vehicles. The location of the panhandler near the driveway interferes with drivers' vision and ability to safely enter and exit the driveway. Furthermore, drivers become distracted from their duty to watch traffic as they maneuver to avoid a panhandler preventing safe access to the driveway, then causing vehicular congestion and blockage of traffic. As set forth above, distracted drivers are more prone to automobile accidents and the safety risk to vehicle occupants, panhandlers, and pedestrians increase.
- e) The city council further 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 rights to decline to listen to or to avoid panhandling from others) is abusive, detracts

from the right of transit-dependent residents to the quiet enjoyment of these public facilities on which they necessarily rely, increases the vulnerability to intimidation or harassment of such residents since they must have cash or means of payment out or readily available at such sites, and creates an unacceptable risk to the residents' safety and welfare. Such places include buses, shuttles and marked public transportation stops, banks and check cashing facilities, ATM machines, outdoor dining facilities, and public parking lots and structures, and gas pumps available for public use. Restricting panhandling in these places will provide a balance between the rights of panhandlers and the rights of persons who will commonly be carrying cash on their persons and wish to decline or avoid such panhandlers.

- f) The City Council finds that the restrictions contained herein are neither overbroad nor vague, and are narrowly tailored to serve a substantial governmental interest. The goal of this chapter is to protect city residents, visitors and panhandlers from traffic safety problems, along with intrusive or threatening conduct and personal harassment or intimidation that may result from panhandling.

9.30.020 Definitions.

For the purpose of this chapter, unless the context clearly requires a different meaning, the words, terms and phrases hereinafter shall have the meaning given them in this section.

- a) "Automated teller machine" shall mean any electronic information processing device which accepts or dispenses cash in connection with a credit, deposit, or convenience account.
- b) "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 during and after regular banking hours.
- c) "Bank" means 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.
- d) "Credit union" means 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.
- e) "Donation" means a gift of money or other item of value and shall also include the purchase of an item for an amount exceeding its value under circumstances where a reasonable person would understand that the purchase is in substance a gift.
- f) "Panhandling" shall include spoken, written, or printed words, or bodily gestures, signs or other means with the purpose of obtaining a direct and immediate donation of money or other things of value or soliciting the direct and immediate sale of goods or services at the place of solicitation. It shall not include such activities that merely involve communications and information and do not call for the direct and immediate exchange of money or other things of value.

- g) "Public transportation vehicle" shall mean any vehicle, including a bus or shuttle, 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.

9.30.030 All panhandling prohibited at specified locations.

All panhandling shall be prohibited at the following specified locations:

- a) Motor Vehicles. No person shall panhandle from an operator or occupant traveling in a motor vehicle while such vehicle is located within 200 feet of any open 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.
- b) Public Transportation Vehicles and Stops. No person shall panhandle in any public transportation vehicle or within 50 feet of any designated or posted public transportation vehicle stop.
- c) Public Parking Lots. No person shall panhandle in any public parking lots any time after dark. A public parking lot means any such facility that is available to the public for parking, even if the property is privately owned. After dark means any time from one-half hour after sunset to one-half hour before sunrise. This subsection shall not apply to any of the following:
 - 1. To solicitations related to business which is being conducted on the subject premises by the owner or lawful tenants;
 - 2. To solicitations related to the lawful towing of a vehicle; or
 - 3. To solicitations related to emergency repairs requested by the operator or other occupant of a vehicle.
- d) Outdoor Dining Areas. No person shall panhandle in, or within 15 feet of, outdoor dining areas of restaurants or other dining establishments serving food for immediate consumption.
- e) Banks and ATMs. No person shall panhandle within 15 feet of any entrance or exit of any bank during its business hours or within 15 feet of any automated teller machine during the time it is available for customers' use; 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 automated teller machine facility; provided further, that 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. Nothing in this subsection shall be construed to prohibit the lawful vending of goods and services within such areas. The provisions of this subsection 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.

- f) At or within 15 feet of a gas station gas pump available to the public.
- g) At or within 15 feet of a driveway accessing a shopping center, retail, or business establishment.

9.30.040 Penalty for violation of RCMC 9.30.030.

- a) Violation of LMC [9.30.030](#) shall be a violation punishable by a fine not to exceed \$600.
- b) Nothing in this chapter in any way limits any other remedy that may be available to the city, or any penalty that may be imposed by the city, for violations of this chapter.

9.30.050 Aggressive solicitation prohibited.

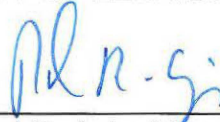
- a) It shall be unlawful for any person to solicit by harassing, intimidating or menacing another person on a public street or sidewalk or in another place open to the public, whether publicly or privately owned.
- b) For purposes of this section:
 - 1. "Solicit" means to ask another by word or gesture for the immediate payment of money or for some other thing of value.
 - 2. "Solicit by harassing, intimidating or menacing" means to do any of the following while soliciting:
 - a. Intentionally blocking or interfering with 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;
 - b. Intentionally touching or causing physical contact with another person without that person's consent in the course of soliciting;
 - c. Following the solicitee, going behind, ahead or alongside of him or her, with the intent to intimidate or coerce;
 - d. Threatening the solicitee, by word or gesture, with physical harm;
 - e. Abusing the solicitee with words which are offensive and inherently likely to provoke an immediate violent reaction; or
 - f. Persisting in soliciting an individual after the person has given a negative response to such soliciting.
- c) Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed \$1,000 or be imprisoned for a period not to exceed six months or both. However, a violation of LMC

9.30.050 may be charged, in the discretion of the city attorney or city prosecutor, as a violation.

- d) Nothing in this chapter in any way limits any other remedy that may be available to the city, or any penalty that may be imposed by the city, for violations of this chapter.

Passed by the Lebanon City Council and executed by the Mayor on this 10th day of February, 2016 by a vote of 5 yeas and 0 nays.

CITY OF LEBANON, OREGON



Paul R. Aziz, Mayor

Bob Elliott, Council President

ATTESTED BY:


Linda Kaser, City Clerk