

CITY OF DUNCAN

BYLAW NO. 2098, 2010

**A BYLAW TO REGULATE THE SAFE AND EFFICIENT MOVEMENT OF
PEDESTRIANS AND OTHER TRAFFIC ON THE STREETS AND IN PUBLIC
SPACES**

WHEREAS the Council for the City of Duncan recognizes panhandling as a legitimate activity;

AND WHEREAS the Council for the City of Duncan desires to promote the safe and efficient movement of traffic and pedestrians on the streets and in public spaces and recognizes the potential for conflicts between such safe and efficient movement and the activity of panhandling;

NOW THEREFORE the Council of the City of Duncan enacts as follows:

TITLE

1. This bylaw may be cited for all purposes as "Panhandling Bylaw No. 2098".

DEFINITIONS

2. In this bylaw:

"automated teller machine" means 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, withdrawals, balance inquiries, and mortgage and loan payments;

"after hours depository" means a device outside a financial institution intended to facilitate merchant deposits after banking hours and on weekends;

"bus stop" means a section of street which is reserved for the loading and unloading of buses and where parking and stopping of all other vehicles is prohibited;

"panhandle" means to beg for, or without consideration, ask for, money, donations, goods or other things of value whether by spoken, written or printed word or bodily gesture for one's self or for any other person but does not include soliciting by a registered non-profit society holding a tag day/fundraising drive permit issued by the City of Duncan or other soliciting approved by the City;

"street" means any highway, roadway, sidewalk, boulevard, place or right of way which the public is ordinarily entitled or may be permitted to use for the passage of vehicles or pedestrians and includes a structure located in any of those areas;

"traffic control signal" means a traffic control signal as defined in the *Motor Vehicle Act*, R.S.B.C., 1996 c. 318, as amended, from time to time;

"trust company" means an office or branch of a trust company to which *The Trust and Loans Companies Act* (Canada) applies and in which deposit accounts are held.

RESTRICTIONS ON PANHANDLING

3. No person shall panhandle within 15 metres of:
 - (a) an entrance to a bank, credit union or trust company;
 - (b) an automated teller machine;
 - (c) an after hours depository;
 - (d) a bus stop or bus shelter;
 - (e) a train station or train stop;
 - (f) a pay telephone;
 - (g) a public toilet;
 - (h) the entrance to any liquor store or cold beer and wine store;
 - (i) the entrance to a movie theatre;
 - (j) a place where a commercial passenger vehicle regularly stops to pick up or disembark passengers.

4. No person shall panhandle from a person who is:
 - (a) in, on or disembarking from a commercial passenger vehicle;
 - (b) in the process of getting in, out of, on or off of a vehicle.

5. No person shall panhandle from an occupant of a motor vehicle which is:
 - (a) parked;
 - (b) stopped at a traffic control signal; or
 - (c) standing temporarily for the purpose of loading or unloading.

6. No person shall panhandle in a manner that would cause a reasonable person to be concerned for the solicited person's safety or security.

7. No person shall panhandle:

- (a) from a person who is using, waiting to use, or departing from a device commonly referred to as an automated teller machine or an after hours depository;
 - (b) from a person who is using, or waiting to use a pay telephone;
 - (c) from a person who is using, or waiting to use a public toilet facility;
 - (d) from a person waiting to enter a movie theatre; or
 - (e) from a person who is waiting at a place that is marked, by use of a sign or otherwise, as a place where a commercial passenger vehicle, bus, or train regularly stops to pick up or disembark passengers.
8. No person shall panhandle after sunset on any given day.
 9. No person shall sit or lie on a street for the purpose of panhandling.
 10. No person shall continue to panhandle from a person, or follow a person, after that person has made a negative response.
 11. No person shall obstruct the path of pedestrian traffic or the path of a solicited person.
 12. No person shall panhandle by proceeding behind or alongside or ahead of the solicited person.
 13. No person shall panhandle by physically approaching a solicited person, as a member of a group of 2 or more persons.
 14. No person shall panhandle in the same place more than once within a 24 hour period or for more than 60 minutes (1 hour) in the same place, or within 30.48 metres (100 feet) of that place, within a 24 hour period.
 15. No person shall obstruct or interfere with a bylaw enforcement/compliance officer in the exercise of his/her duties.

ENFORCEMENT

16. The provisions of this Bylaw may be enforced by any Bylaw Enforcement/Compliance Officer or member of the RCMP.

PENALTY

17. Every Person who contravenes or violates any provision of this Bylaw, or who suffers or permits any act or thing to be done in contravention or in violation of

any provision of this Bylaw, or who neglects to do or refrains from doing anything required to be done by any provision of this Bylaw, commits an offence and, upon conviction, shall be liable to a fine or penalty not less than \$100.00, and not exceeding \$10,000, and/or a jail term of not more than 6 months.

18. Where the offence is a continuing one, each day the offence continues shall be a separate offence.

REFERENCE TO OTHER BYLAWS OR ENACTMENTS

19. Any enactment referred to herein is a reference to an enactment of Canada or British Columbia and regulations thereto, as amended, revised, consolidated or replaced from time to time, and any bylaw referred to herein is a reference to an enactment of the Council of the City of Duncan, as amended, revised, consolidated or replaced from time to time.

SEVERABILITY

20. If any part, section, sentence, clause, phrase or word of this bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder which shall continue in full force and effect and be construed as if the bylaw had been adopted without the invalid portion.

READ THE FIRST TIME THE 16TH DAY OF AUGUST, 2010.

READ THE SECOND TIME THE 16TH DAY OF AUGUST, 2010.

READ THE THIRD TIME THE 16TH DAY OF AUGUST, 2010.

ADOPTED THE 20TH DAY OF SEPTEMBER, 2010.

Director of Corporate Services

Mayor