



City of Tacoma

Notice of Public Hearing

August 31, 2006

On Tuesday, September 19, 2006, at approximately 5:30 p.m., the City Council will conduct a public hearing on the proposed amendments to Title 8 of the Municipal Code, relating to Public Safety and Morals associated with panhandling. The draft ordinance can be reviewed at www.cityoftacoma.org under public hearings and notices. For additional details, please see the reverse side of this notice.

This hearing will take place in the City Council Chambers on the first floor of the Tacoma Municipal Building, 747 Market Street, Tacoma, Washington. All persons will have an opportunity to present their oral comments at the meeting. For further information, please call Ms. Kim Gerhardt at (253) 591-5917.

The City of Tacoma does not discriminate on the basis of disabilities in any of its programs or services. Special accommodations can be provided upon request within five (5) business days prior to the hearing. To arrange for these accommodations please contact the City Clerk's Office at (253) 591-5171 (TTY 591-5153).

DORIS SORUM
City Clerk



City of Tacoma

Proposed Amendments to Municipal Code Chapter 8.13A Regarding Panhandling

Citizens and City Council members have expressed concern for public safety and traffic safety regarding solicitations, such as panhandling, when directed at traffic or done in a coercive manner. The Public Safety Committee of the City Council has reviewed a draft ordinance entitled Tacoma Municipal Code Chapter 8.13A, prohibiting solicitations done near specific places or in a coercive manner and a draft ordinance entitled Tacoma Municipal Code Chapter 8.13B, prohibiting solicitations to occupants of vehicles on public roadways.

At their meeting of May 25, 2006, the Public Safety Committee directed that a public hearing be set to take additional testimony at a City Council meeting regarding these measures. The draft ordinances have been distributed to Neighborhood Councils and Business Districts and their input has been sought.

For further information, please contact Assistant City Attorney Kim Gerhardt at (253) 591-5917 [kgerhard@ci.tacoma.wa.us].

DRAFT ORDINANCE

AN ORDINANCE relating to public safety and morals, and amending Title 8 of the Tacoma Municipal Code by repealing Section 8.13.030, "Vehicular or Pedestrian Interference," in its entirety; and by the enactment of two new chapters thereto, to be known and designated as Chapter 8.13A, "Regulation of Solicitation," and Chapter 8.13B, "Solicitations to Occupants of Vehicles on Public Roadways Prohibited."

WHEREAS the City Council has determined that solicitations conducted near automated teller machines create a safety hazard and an increased potential for criminal activity against persons using the machines, since those persons are often in isolated locations with cash conspicuously in their possession, thereby making them more vulnerable to and intimidated by solicitors, and

WHEREAS the City Council has determined that solicitations conducted near entrances and exits of banks, credit unions, and other similar financial institutions create a safety hazard and an increased potential for criminal activity against persons using those institutions, since those persons are often entering or exiting those institutions with cash conspicuously in their possession, thereby making them more vulnerable to and intimidated by solicitors, and

WHEREAS the City Council has determined that solicitations conducted near exterior public pay phones create a safety hazard and an increased potential for criminal activity against persons using the telephones, since those persons are often in isolated locations with their attention distracted from their surroundings, thereby making them more vulnerable to and intimidated by solicitors, and

WHEREAS the City Council has determined that solicitations conducted near self-service car washes create a safety hazard and an increased potential for criminal activity against persons using self-service car washes, since those

persons are often in isolated locations with cash conspicuously in their possession and are usually a captive audience, with their attention distracted from their surroundings as they have vehicles in various stages of cleaning, thereby making them more vulnerable to and intimidated by solicitors, and

WHEREAS the City Council has determined that solicitations conducted near self-service fuel pumps create a safety hazard and an increased potential for criminal activity against persons using self-service, since those persons are often in isolated locations with cash conspicuously in their possession and are usually a captive audience, with their attention distracted from their surroundings as they fill their vehicles with fuel, thereby making them more vulnerable to and intimidated by solicitors, and

WHEREAS the City Council has determined that solicitations conducted near public transportation stops create a safety hazard and an increased potential for criminal activity against persons using the public transportation stops, since those persons are usually a captive audience, often in isolated locations, with their attention distracted from their surroundings as they wait and watch for necessary transportation, thereby making them more vulnerable to and intimidated by solicitors, and

WHEREAS the City Council has determined that it is in the best interest of the public health, safety, and welfare to restrict the distances at which solicitations may be conducted near those locations and facilities, and

WHEREAS the City Council has determined that solicitations for immediate employment, goods, services, financial aid, or monetary gifts to the occupants of

vehicles on public roadways distract drivers, obstruct and impede the orderly flow of traffic, cause traffic congestion, and create traffic and safety hazards that pose a danger to the solicitors, the persons solicited, and to the traveling public in general, and

WHEREAS the City Council has determined that the annual “Fill the Boot” campaign has well-established protections, including, but not limited to, wearing a reflective vest and an individual to monitor every firefighter or volunteer to ensure that no solicitation to “Fill the Boot” impedes the orderly flow of traffic or causes any traffic congestion or safety hazards, and

WHEREAS the City Council has determined that it is in the best interest of the public health, safety, and welfare to prohibit such solicitations to all occupants of vehicles on public roadways, except for the annual “Fill the Boot” campaign;
Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TACOMA:

Section 1. That Section 8.13.030 of the Tacoma Municipal Code, entitled “Vehicular or Pedestrian Interference,” is hereby repealed in its entirety.

~~**8.13.030 Vehicular or pedestrian interference.**~~

~~A. The following definitions apply in this section:~~

~~1. “Aggressively beg” means to beg with intent to intimidate another person into giving money or goods.~~

~~2. “Beg” means to ask for money or goods as a charity, whether by words, bodily gestures, signs, or other means.~~

~~3. “Obstruct pedestrian or vehicular traffic” means to walk, stand, sit, lie or place an object in such a manner as to block passage by another person or a driver of a vehicle to take evasive action to avoid physical contact. Acts authorized by a permit issued pursuant to the Tacoma Municipal Code, such as under Titles 9 and 10, shall not constitute obstruction of pedestrian or vehicular traffic.~~

~~4. “Public place” means an area generally visible to public view and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks and streets open to the general public, including those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.~~

~~B. A person is guilty of pedestrian interference if, in a public place, he or she intentionally:~~

~~1. Obstructs pedestrian or vehicular traffic; or~~

~~2. Aggressively begs.~~

~~C. Pedestrian interference may be punished by a fine not to exceed \$500.00 or by imprisonment in jail for a term not to exceed 90 days, or by both such fine and imprisonment.~~

Section 2. That Title 8 of the Tacoma Municipal Code is hereby amended by the addition thereto of a new chapter, to known and designated as Chapter 8.13A, entitled “Regulation of Solicitation,” consisting of five sections, and reading as follows:

CHAPTER 8.13A
REGULATION OF SOLICITATION

- 8.13A.010 Definitions.
- 8.13A.020 Place of solicitation.
- 8.13A.030 Manner of solicitation.
- 8.13A.040 Evidence.
- 8.13A.050 Penalty.

8.13A.010 Definitions. In this chapter:

A. “Automated teller machine” means a machine, other than a telephone:

1. that is capable of being operated by a customer of a financial

institution;

2. by which the customer may communicate to the financial

institution a request to withdraw, deposit, transfer funds, make payment, or

otherwise conduct financial business for the customer or for another person

directly from the customer's account or from the customer's account under a line of

credit previously authorized by the financial institution for the customer; and

3. the use of which may or may not involve personnel of a financial

institution.

B. “Exterior public pay telephone” means any coin or credit card reader telephone that is:

1. installed or located anywhere on a premises except exclusively in

the interior of a building located on the premises; and

2. accessible and available for use by members of the general

public.

C. “Public transportation stop” means an area officially marked and designated as a place to wait for a bus, a light rail vehicle, or any other public transportation vehicle that is operated on a scheduled route with passengers paying fares on an individual basis.

D. “Self-service car wash” means a structure:

1. at which a vehicle may be manually washed by its owner or operator with equipment that is activated by the deposit of money in a coin-operated machine; and
2. that is accessible and available for use by members of the general public.

E. “Self service fuel pump” means a fuel pump:

1. from which a vehicle may be manually filled with gasoline or other fuel directly by its owner or operator, without the aid of an employee or attendant of the premises at which the fuel pump is located; and
2. that is accessible and available for use by members of the general public.

F. “Solicitation” means to ask, beg, solicit, or plead, whether orally or in a written or printed manner, for the purpose of immediately receiving contributions, alms, charity, or gifts of items of value for oneself or another person.

8.13.020 Place of solicitation.

A. Solicitation near designated locations and facilities.

1. A person commits an offense if he or she conducts any solicitation within 15 feet of:

- a. an automated teller machine;
- b. an entrance or exit of a bank, credit union, or other similar financial institution;
- c. an exterior public pay telephone;
- d. a self-service car wash;
- e. a self-service fuel pump; or
- f. a public transportation stop.

B. For purposes of Subsection A, measurement will be made in a straight line, without regard to intervening structures or objects, from the nearest point at which a solicitation is being conducted to whichever is applicable of the following:

- 1. the nearest entrance or exit of a facility in which an automated teller machine is enclosed or, if the machine is not enclosed in a facility, to the nearest part of the automated teller machine;
- 2. the nearest entrance or exit of a bank, credit union, or other similar financial institution;
- 3. the nearest part of an exterior public pay telephone;
- 4. the nearest part of the structure of a self-service car wash;
- 5. the nearest part of a self-service fuel pump; or
- 6. the nearest point of any sign or marking designating an area as a public transportation stop.

8.13A.030 Manner of solicitation.

A. Solicitation by coercion.

- 1. "Coercion" means:

a. to approach or speak to a person in such a manner as would cause a reasonable person to believe that the person is being threatened with:

i. imminent bodily injury; or

ii. the commission of a criminal act upon the person or another person, or upon property in the person's immediate possession;

b. to persist in a solicitation after the person solicited has given a negative response;

c. to block, either individually or as part of a group of persons, the passage of a solicited person;

d. to engage in conduct that would reasonably be construed as intended to compel or force a solicited person to accede to demands;

e. using violent or threatening gestures toward a person;

f. willfully providing or delivering, or attempting to provide or deliver, unrequested or unsolicited services or products with a demand or exertion of pressure for payment in return; or

g. using profane, offensive, or abusive language which is inherently likely to provoke an immediate violent reaction.

2. A person commits an offense if he or she conducts a solicitation by coercion.

8.13A.040 Evidence. Evidence to support a conviction for a violation of this chapter may include, but is not limited to, testimony of witnesses, videotape evidence of the violation, and other admissible evidence.

8.13A.050 Penalty. Violation of Section 8.13A.020 shall be a misdemeanor. Violation of Section 8.13A.030 shall be a gross misdemeanor.

Section 3. That Title 8 of the Tacoma Municipal Code is hereby amended by the addition thereto of a new Chapter 8.13B, to be known and designated as “Solicitations to Occupants of Vehicles on Public Roadways Prohibited,” consisting of four sections, reading as follows:

CHAPTER 8.13B
SOLICITATIONS TO OCCUPANTS OF VEHICLES
ON PUBLIC ROADWAYS PROHIBITED

8.13B.010 Definitions.
8.13B.020 Prohibited conduct.
8.13B.030 Evidence.
8.13B.040 Penalty.

8.13B.010 Definitions. In this chapter:

A. “Goods” means property of every kind.

B. “Public property” means:

1. any property open or devoted to public use or owned by the City;

and

2. any area dedicated to the public use for sidewalk, street, highway, or other transportation purposes, including, but not limited to, any curb, median, parkway, shoulder, sidewalk, alley, drive, or public right-of-way.

C. “Roadway” has the meaning given that term in RCW 46.04.500. A complete copy of RCW 46.04.500 is on file with the office of the City Clerk.

D. “Services” means any work done for the benefit of another person.

E. “Solicitation” means any conduct or act whereby a person:

1. either orally or in writing, asks for an immediate ride, employment, goods, services, financial aid, monetary gifts, or any article representing monetary value, for any purpose;

2. either orally or in writing, sells or offers for immediate sale goods, services, or publications;

3. distributes without remuneration goods, services, or publications;
or

4. solicits signatures on a petition or opinions for a survey.

F. "Vehicle" has the meaning given that term in RCW 46.04.670. A complete copy of RCW 46.04.670 is on file with the office of the City Clerk.

8.13B.020 Prohibited conduct.

A. A person commits an offense if, while occupying any public property adjacent to any public roadway in the City, he or she knowingly conducts a solicitation directed to, or intended to attract the attention of, the occupant of any vehicle stopped or traveling on the roadway. An offense occurs when the solicitation is made, whether or not an actual employment relationship is created, a transaction is completed, or an exchange of money, goods, or services takes place.

B. It is a defense to prosecution under Section 8.13B.020 that the person was:

1. summoning aid or requesting assistance in an emergency situation; or

2. a law enforcement officer in the performance of official duties.

C. This chapter shall not apply to any firefighter soliciting donations during the annual "Fill the Boot" campaign or to any volunteer assisting said firefighter.

8.13B.030 Evidence. Evidence to support a conviction for a violation of this chapter may include, but is not limited to, testimony of witnesses, videotape evidence of the violation, and other admissible evidence.

8.13B.040 Penalty. Violation of this chapter shall be a misdemeanor.

Passed _____

Mayor

Attest:

City Clerk

Approved as to form and legality:

Assistant City Attorney