



TO: T.C. Broadnax, City Manager
FROM: Elizabeth Pauli, City Attorney, City Attorney's Office *EP*
Keith A. Echterling, Assistant City Attorney, City Attorney's Office *KAE*
SUBJECT: Ordinance - Amending TMC 8.52.020, relating to unlawful transit conduct –
July 28, 2015
DATE: July 10, 2015

SUMMARY:

Tacoma Municipal Code (“TMC”) 8.52.020, Unlawful Transit Conduct, prohibits smoking or carrying a lighted or smoldering pipe, cigar, or cigarette in a transit vehicle or at a municipal transit station, and any person engaging in this conduct is guilty of a misdemeanor offense, punishable by up to 90 days in jail and/or a \$1,000 fine. The proposed amendment would criminalize the use of electronic smoking devices on transit property, but would allow for an exception for the use of electronic or traditional smoking instruments in specifically authorized areas.

STRATEGIC POLICY PRIORITY:

- Strengthen and support a safe city with healthy residents.

BACKGROUND:

TMC 8.52.020(A)(1) makes it unlawful for any person, while on or in a municipal transit vehicle or while in or at a municipal transit station, to smoke *or* carry a lighted or smoldering pipe, cigar, or cigarette. A “municipal transit station” includes all facilities, structures, stop shelters, lands, interest in lands, air rights over lands, and rights-of-way of all kinds that are owned, leased, held or used by a public agency for the purpose of providing public transportation services. There is no exception to this statute to allow for smoking in areas designated by the Transit Authority for such conduct. Additionally, the Tacoma Municipal Code does not contain any proscription regarding the use of electronic smoking devices on transit property. The proposed amendment to the TMC would accomplish two objectives: (1) prohibit the use of electronic smoking devices on transit property; and (2) create an exception for smoking and use of electronic smoking devices in specifically defined and authorized areas. The proposed amendment would criminalize the use of electronic smoking devices on transit property in the same fashion as traditional smoking, but would allow for an exception to be created for the use of electronic or traditional smoking instruments only in specifically authorized areas.



Under the Revised Code of Washington (“RCW”), a legislatively-created exception exists for smoking or carrying a lighted or smoldering pipe, cigar, or cigarette, if such conduct is done in an area designated and authorized by the Transit Authority. The proposed TMC amendment would allow for a similar exception within the City of Tacoma. This exception would help facilitate consistency with state law, would encourage citizen smokers utilizing transit services in the City of Tacoma to smoke only in designated areas, and would allow transit passengers and employees to smoke without having to leave transit property. The exception would also allow for the use of electronic smoking devices only in the specifically authorized areas.

ISSUE:

Amending the TMC to prohibit the use of electronic smoking devices on transit property, but allow for use or carrying of a smoldering pipe, cigar, or cigarette and smoking thereof, or use of an electronic smoking device, on municipal transit property only in specifically designated areas. The smoking or carrying of such items outside of such specifically designated areas would be and/or remain a crime and continue to be designated as Unlawful Transit Conduct.

ALTERNATIVES:

The City could retain current status and continue to prohibit the smoking and use of the above items on all municipal transit property, and retain current status where no ordinance addresses the use of electronic smoking devices on transit property.

FISCAL IMPACT:

There is no fiscal impact.

RECOMMENDATION:

Staff recommends that the City Council approve the proposed TMC amendments.