



ORDINANCE NO. 28309

1 AN ORDINANCE relating to unlawful transit conduct; amending Tacoma Municipal
2 Code (“TMC”) 8.52.020, Unlawful Transit Conduct, to criminalize the use of
3 electronic smoking devices on transit property, and to allow for an exception
4 for the use of electronic or traditional smoking instruments in specifically
5 authorized areas.

6 WHEREAS Section 8.52.020 of the Tacoma Municipal Code (“TMC”)
7 makes it unlawful for any person, while on or in a municipal transit vehicle or
8 while in or at a municipal transit station, to smoke or carry a lighted or smoldering
9 pipe, cigar, or cigarette, and a person engaging in said conduct is guilty of a
10 misdemeanor offense punishable by up to 90 days in jail and/or a \$1,000 fine,
11 and

12 WHEREAS a “municipal transit station” includes all facilities, structures,
13 stop shelters, lands, interest in lands, air rights over lands, and rights-of-way of
14 all kinds that are owned, leased, held or used by a public agency for the purpose
15 of providing public transportation services, and

16 WHEREAS the TMC does not currently address the use of electronic
17 smoking devices, and

18 WHEREAS there is currently no exception to this statute to allow for
19 smoking or use of an electronic smoking device in areas designated by the
20 Transit Authority for such conduct, and

21 WHEREAS, under the Revised Code of Washington, a
22 legislatively-created exception exists for smoking or carrying a lighted or
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1 smoldering pipe, cigar, or cigarette, if such conduct is in an area designated and
2 authorized by the Transit Authority, and

3 WHEREAS the proposed TMC amendment would allow for a similar
4 exception within the City to ensure consistency with state law, encourage citizen
5 smokers utilizing transit services in the City to smoke only in designated areas,
6 and allow transit passengers and employees to smoke without having to leave
7 transit property, and would prohibit the use of electronic smoking devices on
8 transit property unless used in the designated smoking areas, and
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10 WHEREAS the proposed TMC amendment would define “electronic
11 smoking device” as an electronic or battery-operated device, the use of which
12 resembles smoking, which can be used to deliver nicotine or other substances to
13 the person inhaling from the device, including, but not limited to, an electronic
14 cigarette, electronic cigar, electronic cigarillo, electronic pipe, and electronic
15 hookah, and
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17 WHEREAS staff presented the proposed amendments to the Public
18 Safety, Human Services, and Education Committee meeting on March 26 and
19 June 25, 2015, and the Committee recommended that the amendments be
20 forwarded to the City Council for its consideration at its meeting of June 25,
21 2015; Now, Therefore,
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BE IT ORDAINED BY THE CITY OF TACOMA:

That Section 8.52.020 of the Tacoma Municipal Code is hereby amended
to read as set forth in the attached Exhibit "A."

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Assistant City Attorney



EXHIBIT "A"

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8.52.020 Unlawful transit conduct.

A. A person is guilty of unlawful transit conduct if, while on or in a municipal transit vehicle as defined by RCW 46.04.355 as now or hereafter amended or reenacted, or in or at a municipal transit station, he or she:

1. Smokes or carries a lighted or smoldering pipe, cigar, or cigarette, or uses an electronic smoking device, unless he or she is smoking or using the electronic smoking device in an area designated and authorized by the transit authority. For purposes of this subsection, "electronic smoking device" means an electronic or battery-operated device, the use of which resembles smoking, which can be used to deliver nicotine or other substances to the person inhaling from the device. The definition includes, but is not limited to, an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, and electronic hookah; or
2. Discards litter other than in designated receptacles; or
3. Plays any radio, recorder, or other sound-producing equipment, except that nothing herein shall prohibit the use of such equipment when connected to earphones which limit the sound to individual listeners or the use of a communication device by an employee of the owner or operator of the municipal transit vehicle or municipal transit station; or
4. Spits or expectorates; or
5. Carries any flammable liquid, explosive, acid, or other article or material likely to cause harm to others; except that nothing herein shall prevent a person from carrying a cigarette, cigar, or pipe lighter or carrying a firearm or ammunition in a way that is not otherwise prohibited by law; or
6. Consumes or is under the influence of any intoxicating beverage or illicit drug; or
7. Intentionally obstructs or impedes the flow of municipal transit vehicles or passenger traffic, intentionally hinders or prevents access to municipal transit vehicles or stations, or otherwise unlawfully interferes with the provision or use of public transportation services; or
8. Engages in loud, raucous, unruly, harmful, or harassing behavior that disturbs the peace, comfort, or repose of a reasonable person of normal sensibilities; or
9. Skates on roller skates or in-line skates, or rides in or upon or by any means a coaster, skateboard, toy vehicle, or any similar device; provided that a person may walk while wearing skates or carry a skateboard while on or in a municipal transit vehicle or in or at a municipal transit station if that conduct is not otherwise prohibited by law.
10. Engages in conduct not described in subsections 1 through 9 which is inconsistent with the intended use and purpose of the transit station or transit vehicle and refuses to obey the lawful command(s) of an agent of the transit authority or a peace officer to cease such conduct.

B. Municipal Transit Station Defined. For the purposes of this section, "municipal transit station" means 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.

C. Penalty. Any person violating this section is guilty of a misdemeanor. The penalty shall be a maximum fine of \$1,000, incarceration for a term of 90 days, or both such fine and imprisonment.

D. Severability. If any provision of this section is held invalid, such invalidity shall not affect any other provision, or the application thereof, which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared severable.