



**TO:** Elizabeth Pauli, City Manager  
**FROM:** William C. Fosbre, City Attorney, City Attorney's Office  
Keith A. Echterling, Assistant City Attorney, City Attorney's Office  
**COPY:** City Council and City Clerk  
**SUBJECT:** Proposed changes to the Tacoma Municipal Code relating to Sitting, Lying, and  
Using City Sidewalks and assembling sidewalk provisions under one code heading.  
**DATE:** June 15, 2017

---

**SUMMARY:**

Currently, the City of Tacoma has a variety of code provisions that relate to the regulation and use of sidewalks. However, many related provisions are found throughout the code rather than coordinated into a comprehensive chapter addressing the misuse of sidewalks. This recommendation proposes collecting the code provisions that regulate behavior on, upon, or adjacent to public sidewalks under one chapter (with two exceptions<sup>1</sup>) and repealing those that have become antiquated.

Additionally, this recommendation proposes adding a new Tacoma Municipal Code chapter, Chapter 8.12A.020 to specifically address the issue of persons sitting and lying on or upon public sidewalks in the City of Tacoma during the hours of six a.m. to eleven p.m., with certain limited exceptions, and proposes implementing a comprehensive tiered system for violations of all sidewalk related provisions under the new proposed chapter.

**STRATEGIC POLICY PRIORITY:**

- Strengthen and support a safe city with healthy residents.
- Encourage and promote an efficient and effective government, which is fiscally sustainable and guided by engaged residents.

**BACKGROUND:**

The City has a fundamental duty to maintain its right of ways and thoroughfares for travel purposes and is permitted, pursuant to its police powers, to reasonably regulate conduct and activities in these forums, giving due account to constitutional protections and liberties.

**ISSUE:**

Amending the TMC to organize use-based sidewalk provisions into one comprehensive chapter, create a new provision prohibiting sitting or lying on sidewalks during designated hours, with limited exceptions, and create increasing penalties for violations.

---

<sup>1</sup> Exceptions are Chapter 9.16 TMC (Streets and Sidewalks — Keeping Clean) and TMC 8.12.150(A)(which prohibits littering on any public property, including sidewalks).



**ALTERNATIVES:**

The City could retain current status and continue to rely upon existing code provisions.

**FISCAL IMPACT:**

There is no fiscal impact.

**RECOMMENDATION:**

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

**Chapter 8.12**  
**DISORDERLY CONDUCT**

Sections:

- 8.12.010 Disorderly persons defined and enumerated.
- 8.12.011 Criminal attempt.
- 8.12.012 Liability for conduct of another – Complicity.
- 8.12.013 *Repealed.*
- 8.12.014 *Repealed.*
- 8.12.015 Disturbing meeting of Council, Board, Commission or Committee of City.
- 8.12.016 Disturbance of school functions.
- 8.12.020 Proof of guilt of conducting opium den.
- 8.12.025 Criminal trespass.
- 8.12.026 *Repealed.*
- 8.12.030 Confiscation of weapons and opium paraphernalia.
- 8.12.040 Violation – Penalties.
- 8.12.050 Severability of provisions.
- 8.12.060 Public disturbance noises.
- 8.12.065 Violation – Penalties.
- 8.12.070 Compression brakes.
- 8.12.090 Sexual assault.
- 8.12.100 *Repealed.*
- 8.12.110 Sexual Assault Protection Order.
- 8.12.111 Indecent Exposure
- 8.12.112 Allowing minor on premises of live erotic performance.
- 8.12.113 Communication with minor for immoral purposes.
- 8.12.114 Reporting of depictions of minor engaged in sexually explicit conduct – Civil immunity.
- 8.12.115 Sexual misconduct with a minor in the second degree.
- 8.12.120 Destruction of property.
- 8.12.150 Littering prohibited – Penalties.
- 8.12.160 Making or Possessing Burglary or Auto Theft Tools.
- 8.12.170 *Repealed.*



**8.12.010 Disorderly persons defined and enumerated.**

The following persons are hereby declared to be disorderly persons:

1. Any person fighting or quarreling or inciting or encouraging others to fight in any public place in the City of Tacoma.
2. Any person who shall intentionally prevent or attempt to prevent a police officer or peace officer of the City of Tacoma from lawfully arresting him or her, or who shall aid or assist any person in the custody of any police officer or peace officer to escape or attempt to escape from such custody.
3. Any person who shall interfere with any police officer or any peace officer of the City, or who shall refuse when called upon to assist him or her in the discharge of his or her duty.
4. Any person who shall be guilty of fast or immoderate driving or riding of horses on any of the streets, highways, or alleys of the City, or who shall ride or drive upon any sidewalk except a proper street crossing, ~~or who shall obstruct any sidewalk, street, highway, or alley in said City in any manner.~~
5. Any person who, for the purpose of annoyance or mischief, shall place in any doorway or on any ~~sidewalk,~~ street, or alley in the City any box or other thing, or who shall tear down, destroy, or mutilate any notice or handbill lawfully posted in the City.
6. Any person, except the police officers of the City, engaged in the lawful discharge of their duty, and persons practicing at target shooting in a duly licensed shooting gallery who shall fire off or discharge any bomb, gun, pistol, or firearm of any kind within the City limits.
7. Any person who shall place any object which is not securely fastened upon any window sill or other outside portion of a building in such a position as to be above or near to a street or sidewalk, or who shall permit any such object to remain in such position upon any such building or part of a building of which he or she shall be in possession.
8. Repealed.
9. Any person who shall have in his or her possession or shall permit to be placed or kept in a building, room, or place owned, leased, or occupied by him or her in the City, any table, slot machine, or other article, device, or apparatus of a kind commonly used for gambling or operated for the losing or winning of money or property, or any representative of either, upon any chance, uncertain, or contingent event, which is not authorized by Chapter 9.46 RCW and the Official Code of the City of Tacoma.
10. Any person or persons in the City who shall play at any game of chance for profit not specifically authorized by the State of Washington, pursuant to Chapter 9.46 RCW, as now or hereafter amended, or who is knowingly in the actual or constructive presence of unlawful gambling. Unlawful gambling is defined as gambling not authorized by the State of Washington pursuant to Chapter 9.46 RCW as now or hereafter amended.
11. Repealed.



12. Repealed.

13. Repealed.

14. Any person who, by act or omission, encourages, causes, or contributes to the dependency or delinquency of a minor under 18 years of age.

15. Repealed.

16. Repealed.

(Ord. 27842 Ex. A; passed Oct. 20, 2009: Ord. 27506 § 11; passed Jul. 25, 2006: Ord. 26117 § 1; passed Aug. 19, 1997: Ord. 25236 § 1; passed Dec. 22, 1992: Ord. 24895 § 1; passed Apr. 30, 1991: Ord. 24765 § 1; passed Nov. 20, 1990: Ord. 24706 § 1; passed Aug. 14, 1990: Ord. 24614 § 1; passed Apr. 17, 1990: Ord. 24418 § 1; passed Aug. 29, 1989: Ord. 24464 § 1; passed Nov. 7, 1989: Ord. 23859 § 1; passed May 19, 1987: Ord. 23820 § 1; passed Mar. 31, 1987: Ord. 23682 § 1; passed Sept. 2, 1986: Ord. 23566 § 1; passed Feb. 11, 1986: Ord. 23549 § 1; passed Jan. 28, 1986: Ord. 23373 §§ 1, 2; passed Apr. 9, 1985: Ord. 23332 § 1; passed Jan. 29, 1985: Ord. 22996 § 1; passed Aug. 30, 1983: Ord. 22600 §§ 9, 10 and 11; passed Dec. 29, 1981: Ord. 21761 § 1; passed Jul. 10, 1979: Ord. 20785 § 1; passed Jun. 29, 1976: Ord. 20466 § 1; passed Jul. 1, 1975: Ord. 20271 § 1; passed Dec. 26, 1974: Ord. 19973 § 1; passed Oct. 30, 1973: Ord. 19961 § 1; passed Oct. 30, 1973: Ord. 19766 § 1; passed Mar. 13, 1973: Ord. 19451 § 1; passed Oct. 5, 1971: Ord. 19065 § 1; passed Mar. 31, 1970: Ord. 18952 § 1; passed Nov. 5, 1969: Ord. 18919 § 1; passed Sept. 9, 1969: Ord. 18797; passed Apr. 15, 1969: Ord. 18669; passed Oct. 22, 1968: Ord. 18649; passed Sept. 10, 1968: Ord. 18495; passed Sept. 6, 1968: Ord. 18338; passed Jul. 15, 1967: Ord. 18289; passed May 16, 1967: Ord. 18258: Ord. 18065 § 1: Ord. 17485 § 3; passed Nov. 12, 1963: Ord. 16059 § 1; passed Mar. 17, 1958)

## **Chapter 8.12A**

### **REGULATION OF SIDEWALK AND ROADWAY USE**

#### **Sections:**

- 8.12A.010 Declaration of purpose**
- 8.12A.020 Unlawful acts designated.**
- 8.12A.030 Vehicular or pedestrian interference**
- 8.12A.040 Soliciting on street prohibited.**
- 8.12A.050 Alcohol containers prohibited on sidewalks.**
- 8.12A.060 Expectoration in public places.**
- 8.12A.070 Violation – Penalties.**

#### **8.12A.010 Declaration of purpose.**

Providing for the free and unobstructed access to, and use of, the sidewalks, walkways, rights of way, and public areas within the City of Tacoma is an important and legitimate governmental interest. To ensure a livable and inviting work and residential environment the City hereby declares its intention to provide for the unobstructed use of its sidewalks and walkways for the primary intended purpose of pedestrian travel.



### **8.12A.020 Unlawful acts designated.**

1. No person may sit or lie down upon a public sidewalk, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk, during the hours between six a.m. and eleven p.m. in the City of Tacoma, except as otherwise permitted by subsection three (3) herein.

2. At all times it is unlawful to sit or lie in any entrance to or exit from any building or parking lot, or on any loading dock.

3. Exceptions: The foregoing provisions do not apply to any person:

a. sitting or lying down due to a medical emergency or due to a sensory, mental, or physical disability;

b. who, as the result of a sensory, mental, or physical disability, utilizes a wheelchair, walker, or similar device to move about the public sidewalk;

c. operating or patronizing a business with permission to occupy the sidewalk;

d. participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on the public sidewalk pursuant to a special event or other applicable permit;

e. sitting on a chair or bench or other sitting specific implement supplied by a public agency or by the abutting private property owner pursuant to the appropriate permit or license; or

f. sitting within a bus stop zone while waiting for public or private transportation;

g. sitting on a privately-owned sidewalk fixture with the permission of the owner;

h. sitting in line for goods or services if such conduct does not impede pedestrians from using the sidewalk or entering a door or other entrance along the sidewalk;

i. who is homeless during a time frame when shelter space or other City provided temporary, transitional, or permanent housing and/or sheltering services are unavailable. Any person choosing to not take advantage of such sheltering services when available shall not be covered by this exception.

### **8.12A.030 Vehicular or pedestrian interference.**

A. The following definitions apply in this section:

1. "Obstruct pedestrian or vehicular traffic" means to walk, stand, sit, lie, or place any object, or collection of objects, in such a manner as to block passage in any manner by another person or a driver of a vehicle, or to cause another person or a driver of a vehicle to take evasive action to avoid physical contact, or that causes a pedestrian or driver to have to take an alternative route around the obstructing conduct or thing(s). Acts authorized by a permit issued pursuant to the Tacoma Municipal Code, such as under Titles 9 and 10, as well as acts authorized by TMC 8.12A.020(3), shall not constitute obstruction of pedestrian or vehicular traffic



2. "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 vehicular or pedestrian interference if, in a public place, he or she ~~intentionally~~ obstructs pedestrian or vehicular traffic.

C. ~~Pedestrian interference may be punished by a fine not to exceed \$1,000 or by imprisonment in jail for a term not to exceed 90 days, or by both such fine and imprisonment.~~

#### **8.12A.040 Soliciting on street prohibited.**

No person shall, on any public street or sidewalk in the city, or in any area or doorway or entranceway immediately abutting thereon, solicit the purchase of any subscription to any magazine, periodical or other publication, or the purchase of any tangible personal property, for delivery at a subsequent time.

#### **8.12A.050 ~~Use of sidewalk~~ Alcohol containers prohibited on sidewalks.**

It shall be unlawful for any manufacturer, distributor or wholesaler to deposit, place, keep or leave, or for any retail licensee to permit the placing, keeping or storage of beer kegs or other beer or wine, or any other alcohol, containers in front, or on any sidewalk, of any licensed retail premises.

#### **8.12A.060 Expectoration in public places.**

No person shall expectorate on the floor of any motor bus or other public conveyance or public building, or on any sidewalk in the City of Tacoma. Violation is a misdemeanor.

#### **8.12A.070 Violation – Penalties.**

Any person violating any of the provisions of this chapter shall upon first such violation be found to have committed a class 1 Civil infraction and be subject to a fine of up to \$250, not including statutory assessments. Any second and subsequent violation of any of the provisions of this chapter, Chapter 8.12A TMC, by a person who has a prior committed finding or guilty finding for any violation of this chapter shall be guilty of a misdemeanor and, on conviction, shall be fined in a sum not exceeding \$1,000.00, or imprisoned in the Correctional Facilities used by the City of Tacoma for a term not exceeding 90 days, or may be both so fined and imprisoned.



**Chapter 8.13**  
**OBSTRUCTING PEDESTRIANS**  
**OR TRAFFIC**

**Sections:**

~~8.13.010—Unlawful acts designated.~~

~~8.13.020—Violation—Penalties.~~

~~8.13.030—Vehicular or pedestrian interference.~~

**8.13.010—Unlawful acts designated.**

~~It shall be unlawful for persons to collect, assemble, or group together and, after being so collected, assembled, or grouped together, to stand or loiter, on any sidewalk, parking strip, or any street corner, or any other place in the City, to the hindrance or obstruction to free passage of any person or persons passing on or along any sidewalk or street in the City of Tacoma.~~

~~(Ord. 22600 § 15; passed Dec. 29, 1981)~~

**8.13.020—Violation—Penalties.**

~~Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and, on conviction, shall be fined in a sum not exceeding \$100.00, or imprisoned in the Pierce County Jail for a term not exceeding 30 days, or may be both so fined and imprisoned.~~

~~(Ord. 22600 § 15; passed Dec. 29, 1981)~~

**8.13.03020—Vehicular or pedestrian interference.**

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

~~1. "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, or to cause 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.~~

~~2. "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 obstructs pedestrian or vehicular traffic.~~

~~C. Pedestrian interference may be punished by a fine not to exceed \$1,000 or by imprisonment in jail for a term not to exceed 90 days, or by both such fine and imprisonment.~~

~~(Ord. 27600 § 3, Exhibit A; passed Apr. 3, 2007; Ord. 24895 § 2; passed Apr. 30, 1991)~~



**~~8.20.280—Use of sidewalk.~~**

~~It shall be unlawful for any manufacturer, distributor or wholesaler to deposit, place, keep or leave, or for any retail licensee to permit the placing, keeping or storage of beer kegs or other beer or wine containers in front, or on any sidewalk, of any licensed retail premises.~~

~~(Ord. 11075 § 25; passed Jul. 18, 1934)~~

**Chapter 8.49**

**SOLICITING MAGAZINE SUBSCRIPTIONS, ETC.**

**Sections:**

~~8.49.010—Soliciting on street prohibited.~~

~~8.49.020—Violation—Penalty.~~

**~~8.49.010—Soliciting on street prohibited.~~**

~~No person shall, on any public street or sidewalk in the city, or in any area or doorway or entranceway immediately abutting thereon, solicit the purchase of any subscription to any magazine, periodical or other publication, or the purchase of any tangible personal property, for delivery at a subsequent time.~~

~~(Ord. 15579 § 1; passed Apr. 9, 1956)~~

**~~8.49.020—Violation—Penalty.~~**

~~Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$500.00, or by imprisonment in the Pierce County Jail for not more than six months, or by both such fine and imprisonment.~~

~~(Ord. 22600 § 51; passed Dec. 29, 1981; Ord. 15579 § 2; passed Apr. 9, 1956)~~

**Chapter 8.60**

**UNLAWFUL ASSEMBLY<sup>2</sup>**

**Sections:**

~~8.60.010—Interference with free use of streets prohibited.~~

~~8.60.020—Failure to disperse upon police order.~~

~~8.60.030—Violation—Penalty.~~

---

<sup>2</sup> Held to be constitutional as reasonable exercise of police power. *Tacoma v. Roe* (1937) 190 W 444, 68 P 2d 1028; *Tacoma v. Boyd* (1937) 190 W 709, 68 P 2d 1030.





**~~8.60.010—Interference with free use of streets prohibited.~~**

~~It shall be unlawful for any person, group or assemblage of persons to go upon, stand or congregate upon any public street or sidewalk in the City of Tacoma for the purpose of obstructing, preventing or otherwise interfering with the free and unobstructed use of such street or sidewalk by other persons.~~

~~(Ord. 11190 § 2; passed Jul. 15, 1935)~~

**~~8.60.020—Failure to disperse upon police order.~~**

~~It shall be unlawful for any person, group or assemblage of persons whose standing, remaining or being congregated upon any public street or sidewalk in the City of Tacoma shall obstruct, prevent or interfere with the free and unobstructed use of such street or sidewalk by other person, to fail or refuse to move on or disperse upon being ordered so to do by any police officer of the City of Tacoma or other peace officer.~~

~~(Ord. 11190 § 1; passed Jul. 15, 1935)~~

**~~8.60.030—Violation—Penalty.~~**

~~Any person violating the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding \$500.00, or by imprisonment in the Pierce County Jail for a period not exceeding six months, or both, in the discretion of the court.~~

~~(Ord. 22600 § 56; passed Dec. 29, 1981; Ord. 11190 § 3; passed Jul. 15, 1935)~~

**Chapter 8.44**

**PROPERTY – OFFENSES AGAINST**

**~~8.44.010—Expectoration in public places.~~**

~~No person shall expectorate on the floor of any motor bus or other public conveyance or public building, or on any sidewalk in the City of Tacoma. Violation is a misdemeanor.~~

~~(Ord. 22600 § 56; passed Dec. 29, 1981; Ord. 11190 § 3; passed Jul. 15, 1935)~~