



ORDINANCE NO.

1 AN ORDINANCE relating to public health and safety; amending Title 8 of the
2 Tacoma Municipal Code, "Public Safety," by adding thereto a new
3 Chapter 8.12A, entitled "Sitting and Lying on Sidewalks," to provide
4 additional regulations relating to sitting or lying on sidewalks.

5 WHEREAS, in May 2017, the City declared a state of emergency due to
6 growing public health concerns associated with an increase in the number of
7 homeless and unsheltered individuals in the City, who, on any given night, can be
8 found sleeping in parks, cars, abandoned buildings, under highway overpasses,
9 and in other places not fit for human habitation, and

10 WHEREAS the increase of homeless encampments and higher
11 concentrations of individuals living in cars or other areas in places not meant for
12 human habitation is having a significant impact on public health and safety, as
13 there are inadequate sanitation and disposal facilities, which can have a high
14 potential for community health impacts, endangering the health of the occupants
15 as well as the surrounding community and neighborhoods, and

16 WHEREAS conditions experienced by unsheltered individuals may include
17 accumulation of uncontained garbage that becomes a food source for vermin,
18 vectors (organisms that transmit diseases or parasites) and related pathogens;
19 lack of proper food storage and clean dishes that can facilitate the spread of food-
20 borne disease; lack of sanitary facilities to dispose of human and animal fecal
21 waste; improper disposal of discarded medical and sharps waste; accumulation of
22 combustible materials that can ignite; lack of access to handwashing and personal
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1 hygiene; lack of clean water; and the victimization of homeless persons by both
2 sheltered and non-sheltered persons, and

3 WHEREAS the City has a variety of Tacoma Municipal Code ("TMC")
4 provisions that relate to the regulation and use of sidewalks, and the duties owed
5 to those sidewalks by abutting property owners, and

6 WHEREAS, while recognizing there may be necessary and/or constitutionally
7 mandated exceptions, there are no regulations that comprehensively address
8 persons sitting or lying on the sidewalk, and

9 WHEREAS the TMC currently contains provisions that prohibit
10 (1) obstructing a sidewalk in any manner (TMC 8.12.010(4)); (2) placing boxes or
11 things on the sidewalks for the purpose of annoyance or mischief
12 (TMC 8.12.010(5)); (3) collecting, assembling, or grouping together of persons who
13 stand or loiter on any sidewalk to the hindrance or obstruction to free passage of
14 any person or persons on or along any sidewalk (TMC 8.13.010); (4) intentionally
15 obstructing pedestrian or vehicular traffic in a public place (TMC 8.13.030(2)(B));
16 (5) expectorating on any sidewalk (TMC 8.44.010); (6) soliciting subscriptions to
17 magazines, papers, or purchases of tangible personal property for delivery at a
18 subsequent time, on any sidewalk (TMC 8.49.010); (7) standing or congregating on
19 a sidewalk for the purpose of obstructing, preventing or otherwise interfering with
20 the free and unobstructed use of such sidewalk (TMC 8.60.010); (8) failing to move
21 on or disperse from standing or remaining on sidewalk when such conduct
22 obstructs or interferes with unobstructed use of sidewalk by another person, when
23 ordered to do so by a police officer (TMC 8.60.020), and
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1 WHEREAS the TMC does not comprehensively define what constitutes
2 obstructing a sidewalk, or it provides a broad definition that potentially could be
3 applied in a disparate fashion, and

4 WHEREAS staff is recommending an amendment to the TMC which
5 specifically focuses on the acts of sitting or lying on sidewalks, and creates
6 recognized exceptions to the proscribed conduct, and

7 WHEREAS the proposed amendment addresses the issue of persons sitting
8 and lying on or upon public sidewalks in the City of Tacoma during the hours of
9 6:00 a.m. to 11:00 p.m., with certain limited exceptions, and proposes a
10 comprehensive tiered system for violations of the chapter, while providing for a
11 check on the application of unfettered enforcement discretion relating to immediate
12 enforcement action upon learning of a violation, and

13 WHEREAS, on June 22, 2017, the a version of the proposed amendments
14 were presented to the Community Vitality and Safety Committee and, after
15 consideration, the Committee declined to forward the proposal for full City Council
16 consideration, and

17 WHEREAS the amendments were revised to better reflect the concerns of
18 the Committee, and

19 WHEREAS these changes are being recommended in connection with the
20 state of emergency that was declared by the City Council pursuant to Ordinance
21 No. 28430 in order to mitigate the public health conditions associated with the
22 homelessness crisis impacting the City of Tacoma; Now, Therefore,



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BE IT ORDAINED BY THE CITY OF TACOMA:

That Title 8 of the Tacoma Municipal Code, "Public Safety," is hereby amended by adding thereto a new Chapter 8.12A, entitled "Sitting and Lying on Sidewalks, as set forth in the attached Exhibit "A."

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Assistant City Attorney



EXHIBIT "A"

Title 8 PUBLIC SAFETY

Chapters:

- 8.01 Penalty Provision
- 8.02 Abandoned Iceboxes
- 8.03 Defenses
- 8.04 Advertising
- 8.06 Aircraft
- 8.07 Baby Chicks and Rabbits
- 8.08 *Repealed*
- 8.09 *Repealed*
- 8.10 Deposit of Trash in or Around Charitable Donation Boxes
- 8.11 Arrest of Persons Subject to Court Order
- 8.12 Disorderly Conduct
- 8.12A Sitting or Lying on Sidewalks

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Chapter 8.12A

Sitting and Lying on Sidewalks

Sections:

- 8.12A.010 Declaration of purpose
- 8.12A.020 Unlawful acts designated.
- 8.12A.030 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.

- A. 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 6:00 a.m. and 11:00 p.m. in the City of Tacoma, except as otherwise permitted by Subsection C herein.
- B. 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.
- C. Exceptions: The foregoing provisions do not apply to any person:
 - 1. sitting or lying down due to a medical emergency or due to a sensory, mental, or physical disability;
 - 2. who, as the result of a sensory, mental, or physical disability, utilizes a wheelchair, walker, or similar device to move about the public sidewalk;
 - 3. operating or patronizing a business with permission to occupy the sidewalk;



4. 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;

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

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

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

8. 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;

9. 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.

10. engaging in constitutionally protected expressive activities which would otherwise be restricted by the limitations in Subsections A and B of this section.

D. No person shall be subject to enforcement under this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this section and has been given a reasonable amount of time to comply or has refused to comply. If the individual fails to comply in a reasonable time or subsequently engages in prohibited conduct after such notification by law enforcement is given, a law enforcement officer may then enforce this section.

E. This section does not permit any conduct which is prohibited by TMC 8.13.030 regarding vehicular or pedestrian interference.

8.12A.030 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 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, upon conviction, shall be fined in a sum not exceeding \$1,000, 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.