



TO: Elizabeth Pauli, City Manager
FROM: Diane Powers, Director, Office of Equity and Human Rights
COPY: City Council and City Clerk
SUBJECT: Request for Universal Closed Captioning Ordinance for Council
Consideration–December 10, 2019
DATE: November 14, 2019

SUMMARY:

Ordinance to amend Tacoma Municipal Code, Chapter 1.29 – Human Rights Commission, by adding a new section 1.29.190, Provision of Universal Closed Captioning, effective March 1, 2020. The Tacoma Area Commission on Disabilities is recommending a Universal Closed Captioning Ordinance to City Council for consideration.

COUNCIL SPONSORS:

Council Members: Beale, Blocker and Ushka

STRATEGIC POLICY PRIORITY:

- *Ensure all Tacoma residents are valued and have access to resources to meet their needs.*

The Universal Closed Captioning Ordinance will provide communication access to thousands of Tacoma residents who are deaf and hard of hearing and have had limited or no access to televised programming on television sets in public settings such as restaurants, taverns, and medical waiting rooms. The Tacoma Area Commission on Disabilities estimates that a minimum of over 8,000 residents are denied access to television programming because most establishments do not activate closed captioning on their televisions. Further, closed captioning access is especially critical during emergencies and natural disasters for all residents at public establishments when collective immediate action is needed.

BACKGROUND:

Originally convened as the “Tacoma Area Task Force for the Needs of the Handicapped,” the Tacoma Area Commission on Disabilities (TACOD) has been chartered since 1987 “to formulate and recommend programs, planning policies, and laws and statutes relating thereto, and shall have the power to engage in certain other activities related to the issues of the disabled.” City staff supports the TACOD.

Since passage in 1990, the Federal Americans with Disabilities Act has required accessibility standards in public accommodations, among other requirements, aimed at prohibiting discrimination based on disability. Closed captioning has been ruled as a reasonable accommodation under Title II and Title III under the American with Disabilities law. Currently, the Tacoma Municipal Code Chapter 1.29, Human Rights Commission, at 1.29.060, H. under “Additional unlawful discriminatory practices,” prohibits the exclusion of a person from a place of public accommodation. It further prohibits failure, or refusal, to extend to a person of disability the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations in a place of public accommodation.

Currently all television broadcasts of US-produced programming in the US include captions and most television sets are capable of displaying captions. Despite the law and display capabilities, advocates for people with disabilities, along with advocates for senior citizens and others who may be hard of hearing, share that many businesses do not enable closed captions as common practice. This burden is currently placed on community members who may be deaf or hard of hearing to make the request for closed



captioning to be turned on. For those who are deaf, and, in particular, speak in American Sign Language (ASL), this request places a difficult burden on this particular population to convey their needs.

TACOD originally presented its recommendations related to requiring display of close captioning in May of 2017, at which time the CVS committee recommended seeking the support of one or more business associations.

TACOD responded by engaging in dialogues with **Tacoma Travel+Pierce**, the **Washington Hospitality Association**, the **Center for Independence**, and the **Hearing Speech and Deaf Center (HSDC)**, TACOD presented its recommendations to the Community Vitality and Safety Committee on July 11, 2019. Members and supporters of the HSDC attended that meeting and gave testimony, supported by ASL interpreters, to discuss the need for closed captioning throughout the city. The CVS responded by requesting that a draft ordinance be presented to the Committee for consideration in advance of being forwarded by the Committee to City Council. On September 26, 2019, OEHR presented the draft ordinance before the CVS Committee and there was a consensus to forward the proposed ordinance to the full City Council for consideration.

On April 15, 2019, the City of Seattle passed an ordinance that requires businesses with TV's to turn on closed captioning. The City of Portland passed a similar law in 2015.

ISSUE:

Current projections indicate that 35,000 or 4% of the regional population of Tacoma and Pierce County residents are either deaf or hard of hearing. Recognizing that the current City code does not specifically encompass the provision of closed captioning for persons in need of these accommodations, TACOD requests that the City Council pass an ordinance that would:

- Require closed captioning accommodations to all publicly accessible areas and places that offer televised programming
- Ensure that closed captions are permanently enabled
- Support a broad education and outreach campaign to secure the full participation of establishments that fall within this definition
- Support a concurrent education campaign for the general public on the ordinance and the benefits of closed captioning

The ordinance would provide exemptions for tax-exempt places of worship as proscribed in federal law.



ALTERNATIVES:

- **Pass a Council Resolution to Promote an Education Campaign**

The TACOD originally supported this alternative. However, over the last two years, the Commission has learned through visits to public establishments that the practice of closed captioning has been more the exception than the rule. The commission believes that an education campaign is essential to progress, along with the capacity to deliver citations and fines. The Office of Equity and Human Rights will continue in its role to investigate public accommodation complaints.

- **Take No Action:**

Under current law, a majority of spaces including bars, restaurants and other spaces open to the public do not provide closed captioning as common practice. The burden of accommodation will continue to rest upon deaf and hard of hearing residents and visitors and for those, particularly who communicate in American Sign Language, and those with more acute hearing difficulties, efforts to request closed captioning will often prove difficult.

RECOMMENDATION:

The Community Vitality and Safety recommends passage of the requested closed captioning ordinance.

Upon passage of the ordinance, the Media and Communications Department will help launch a public education campaign in partnership with the Tacoma Area Commission on Disabilities (TACOD) and the Office of Equity and Human Rights. This campaign will be patterned after the campaign that promoted gender neutral single stall bathrooms in public establishments, would gear up late in 2019 and January of 2020 and launch on February 3, 2020. The campaign will include a mailer to all business and establishments in the city of Tacoma that have televisions available for public viewing which we anticipate at over 3,000 establishments. Delaying the effective date until March 1, 2020, will allow enough time to ensure businesses receive the notification and are aware of this new regulation.



FISCAL IMPACT:

The closed captioning ordinance would include an education outreach launch that would go live on February 3, 2020. The costs of the full campaign is \$15,000 with \$10,00 drawn from the Tacoma Area Commission on Disabilities Services (Cost Center 598211) and \$5,000 sourced from the Equity Capacity Fund (Cost Center 20600).

Enforcement based on accommodation complaints under this ordinance would be absorbed through the Human Rights Commission public accommodation complaint process.

EXPENDITURES:

FUND NUMBER & FUND NAME *	COST OBJECT (CC/WBS/ORDER)	COST ELEMENT	TOTAL AMOUNT
0010 General Fund	20600	5310100	\$5,000
Fund 5800 - CMO	598211	5310100	\$10,000
TOTAL			

* General Fund: Include Department

REVENUES:

FUNDING SOURCE	COST OBJECT (CC/WBS/ORDER)	COST ELEMENT	TOTAL AMOUNT
0010 General Fund	20600	various	\$5,000
Fund 5800 - CMO	598211	5950391	\$10,000
TOTAL			

FISCAL IMPACT TO CURRENT BIENNIAL BUDGET: \$15,000

ARE THE EXPENDITURES AND REVENUES PLANNED AND BUDGETED? The public education campaign will be funded at \$5,000 through the Equity Capacity Fund and \$10,000 through the TACOD Commission Budget.

IF EXPENSE IS NOT BUDGETED, PLEASE EXPLAIN HOW THEY ARE TO BE COVERED.

N/A

Revised: 1/30/2017