

3/15/10 – Amendments to Version 2

Peter Harris
LEG aggressive solicitation ORD v2 amended 3-15-10.docx
3/15/10
Version #2

ORDINANCE _____

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AN ORDINANCE relating to conduct in public places; establishing aggressive solicitation as a civil infraction, creating a new section 15.48.050 of the Seattle Municipal Code, and amending section 15.48.900 relating to penalties for aggressive solicitation and sitting or lying on public sidewalks.

WHEREAS, Seattle Municipal Code Section 12A.12.015 defines aggressive begging as begging with the intent to intimidate another person into giving money or goods, and establishes it as one form of the crime of pedestrian interference; and

WHEREAS, aggressive solicitation in a form that is less serious than aggressive begging also reduces public safety; and

WHEREAS, research on deterrence shows that the speed and certainty of a penalty are often more important than severity, suggesting that aggressive solicitation can be effectively treated as a civil infraction if enforcement is prompt and thorough; and

WHEREAS, the Seattle Municipal Court should have clear authority to require someone who fails to respond to a notice of civil infraction for aggressive solicitation to accept treatment or other services appropriate to the underlying cause of the infraction or perform community service;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Findings.

The Seattle City Council Finds and Declares as follows:

A. The City of Seattle protects free speech.

The City recognizes and protects the free speech rights of all citizens, including the right to solicit donations in public places. Threatening or intimidating people while soliciting is not protected. People should be able to use and enjoy streets and other public places in Seattle without fear for their personal safety.

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1 B. Aggressive solicitation is a serious public safety problem in Seattle.

2 Residents of and businesses in the greater downtown area in Seattle believe aggressive
3 solicitation is a serious problem in their home neighborhoods, and residents of the rest of the city
4 agree. A 2009 survey of residents of Downtown, South Lake Union, Belltown, Pioneer Square
5 and International District/Chinatown found that two-thirds of residents are concerned about
6 aggressive solicitation and fewer than half believe the City is adequately addressing the problem
7 (see Attachment A). A 2009 survey of residents of the entire city found that nearly one-quarter
8 of residents avoid Downtown because of fear for personal safety, an increase from 2007 (see
9 Attachment B). Many recent communications from citizens to the City Council indicate that
10 citizens believe the problem of aggressive solicitation has increased substantially within the last
11 year. These communications relate incidents in which people requesting or demanding
12 donations verbally abused their victims, followed them, refused to take no for an answer,
13 aggressively confronted those attempting to use automated teller machines or pay parking fees,
14 or otherwise threatened or intimidated the victim (see Attachment C).

17 C. Aggressive solicitation threatens the economic vitality of Seattle.

18 In addition to making Seattle a less desirable place to live, fear for personal safety created
19 by aggressive solicitation also damages the city's economic health. When city residents and
20 others avoid Downtown, businesses in Downtown suffer. Seattle's Conventions & Visitors
21 Bureau reports that many visitors from other large cities feel unsafe on Seattle's streets. When a
22 large convention group decides to not return to Seattle because many of its members were
23 victims of aggressive solicitation, the economic impact to the city is in the millions of dollars
24 (see Attachment D).

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1 D. Prohibiting aggressive solicitation is reasonably necessary and appropriately balances
2 individual rights and the public interest.

3 Prohibiting people from engaging in intimidating conduct while soliciting is reasonably
4 necessary for public safety in Seattle. Given the documented public fear for personal safety
5 created by aggressive solicitation, and the impact of this fear on the livability and economic
6 vitality of the city, it is reasonable and appropriate to set a minimum standard for behavior that
7 will reduce this fear.
8

9
10 **Section 2.** A new Section 15.48.050 of the Seattle Municipal Code is added as follows:

11 **SMC 15.48.050 Aggressive Solicitation**

12 A. The following definitions apply in this section:

13 1. “Solicitation” means the act of asking another for money or other items of value,
14 whether or not in exchange for a service or item of value.
15

16 2. “Intimidating conduct” means conduct that ~~((puts a reasonable person in immediate~~
17 ~~fear of harm or loss)) makes a reasonable person fearful or feel compelled to give money or~~
18 ~~another item of value.~~ The mere act of solicitation is not intimidating conduct.
19

20 3. “Public place” has the same meaning as in SMC 12A.12.015.

21 4. “Aggressive solicitation” means the act of engaging in intimidating conduct towards
22 another person in a public place when such conduct is accompanied by an act of solicitation.
23 The mere act of solicitation without intimidation is not aggressive solicitation. Aggressive
24 solicitation includes but is not limited to the following conduct, when the conduct would make a
25 reasonable person fearful or feel compelled to give money or another item of value:
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1 a. intentionally blocking or interfering with a person by any means while making
2 a solicitation, including unreasonably causing the person to take evasive action to avoid
3 physical contact;

4 b. intentionally using physical gestures or profane or abusive language (~~that~~
5 ~~would cause fear or alarm to a reasonable person~~) while making a solicitation;

6 c. repeatedly soliciting a person who has given a negative response to a
7 solicitation while remaining within 15 feet of the person;

8 d. following a person who has given a negative response to a solicitation while
9 repeatedly soliciting the person;

10 e. providing or delivering, or attempting to provide or deliver, unrequested or
11 unsolicited services prior to or without the consent of the person to whom the service is
12 provided; or
13

14 f. soliciting from within 15 feet any person who is using an automated teller
15 machine (ATM) or a public or private parking pay station. For purposes of this
16 paragraph, a person is using an ATM or parking pay station if the person:
17

18 i. is waiting in line for an ATM or parking pay station; or

19 ii. is conducting a transaction on an ATM or at a parking pay station; or

20 iii. immediately before or after conducting a transaction at an ATM or parking
21 pay station, is handling in plain view any money, bank card, receipt, check or
22 other document related to the transaction.
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24 B. Aggressive solicitation is a civil infraction.
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1 **Section 3.** Seattle Municipal Code 15.48.900, last amended by Ordinance 122789, is
2 amended as follows:

3 **SMC 15.48.900 Civil penalty.**

4 A. Each violation of Section 15.48.040 and Section 15.48.050 shall be a civil infraction
5 as contemplated by RCW Chapter 7.80 and deemed to be a Class 3 civil infraction under RCW
6 7.80.120(c), and shall subject to the violator to a maximum penalty and a default amount of
7 ~~((Fifty Dollars (\$50)))~~ \$50 plus statutory assessments. If the person is unable to pay the
8 monetary penalty, the court may order performance of a number of hours of community service
9 in lieu of a monetary penalty.
10

11 B. Each violation of Section 15.48.105 shall be a civil infraction as contemplated by
12 RCW Chapter 7.80 and deemed to be a Class 1 civil infraction under RCW 7.80.120(a), and shall
13 subject the violator to a maximum penalty and default amount of Two Hundred Fifty Dollars
14 (\$250) plus statutory assessments. The penalty for a civil infraction is in addition to the civil
15 liability of the person responsible for the posting to the City for the cost of removal under
16 Sections 15.48.120 and 15.48.130.
17

18 C. As contemplated by RCW 7.80.160, a person who, after receiving a notice of civil
19 infraction that includes a statement of the options provided in RCW Chapter 7.80 for responding
20 to the notice and the procedures necessary for exercising these options, knowingly fails to
21 exercise one of the options within fifteen (15) days of the date of the notice is guilty of a
22 misdemeanor regardless of the disposition of the notice of civil infraction. A person who
23 willfully fails to pay a monetary penalty or perform community service as ordered by a court
24 may be found in contempt of court as provided in chapter 7.21 RCW. In addition to or in lieu of
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1 the penalties set forth in Section 12A.02.070B, when sentencing or imposing conditions on a
2 person convicted of, or receiving a deferred sentence, deferred prosecution or statutory or
3 nonstatutory diversion agreement for a misdemeanor based on failing to respond to a notice of
4 civil infraction issued for a violation of Section 15.48.040 or 15.48.050, the court has the
5 authority to require the offender to (1) be evaluated and comply with treatment for alcohol, drug
6 or mental health problems, (2) contact and participate in housing, food, vocational counseling
7 and training and other social services provided by the court or other entities, (3) perform
8 community service and (4) not subsequently commit a violation of Section 15.48.040 or
9 15.48.050.

11 D. An action for a civil infraction shall be initiated and process in the manner
12 contemplated by RCW Chapter 7.80 and the Infraction Rules for Courts of Limited Jurisdiction.
13 For purposes of RCW 7.80.040, the "enforcement officer" authorized to enforce the provisions of
14 this title are: (1) as to park drives and boulevards, the Superintendent of Parks and Recreation,
15 and as to other public places, the Director of the Seattle Department of Transportation; (2)
16 authorized representatives or assistants of either of them; and (3) a commissioned officer of the
17 Seattle Police Department and a person issued a Special Police Officer Commission by the Chief
18 of Police with authority to enforce this title.

22 **Section 4.** The provisions of this ordinance are declared to be separate and severable. If
23 one or more of the provisions of this ordinance shall be declared by any court of competent
24 jurisdictions to be contrary to law, the provision shall be severed from the rest of the ordinance
25 and all other provisions shall remain valid.

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Section 5. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2010, and signed by me in open session in authentication of its passage this ____ day of _____, 2010.

President _____ of the City Council

Approved by me this ____ day of _____, 2010.

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2010.

City Clerk

(Seal)