



Michael McGinn
Mayor of Seattle

April 23, 2010

Honorable Members
Seattle City Council
600 4th Avenue
Seattle, WA 98104

Dear Council President and Members,

On April 19, 2010, City Council adopted Council Bill 116807, 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. After careful consideration, I hereby veto this bill.

We are all concerned about making sure our streets are safe. At our Youth and Families Initiative meetings I have heard from parents who are concerned about their children's safety in school. I often hear from our constituents about drugs being dealt in the open in our neighborhoods. And all too frequently our city witnesses senseless gun-related violence on our streets. These issues demand our attention.

We know that an increased police presence will have a greater effect on crime, including aggressive solicitation, than any other single factor. That is why I asked Chief Diaz to come up with a strategy to redeploy patrol officers to foot beats in Belltown, Pioneer Square, and the Downtown Core. This plan went into effect earlier this month, and we're already hearing about positive changes. I remain fully committed to the principles of the Neighborhood Policing Plan and I have asked Chief Diaz to explore ways we can achieve our goals with available resources. I look forward to working with the Police Department, and with you, to develop other creative strategies for building a more robust, community-oriented police force.

Over the last six months we have engaged in a healthy civic debate about how best to address the issues raised by proponents of this bill. During my campaign, I voiced reservations about the way in which the aggressive solicitation ordinance may be applied, but I felt the proponents of this bill deserved the opportunity to make their case before the Council, and before the public. Since that time, I have had dozens of conversations about this legislation with our police officials, with the Human Rights Commission, with social service providers, with members of the public, and with many of you. Based on those conversations and on my reading of the legislation, I do not believe this law would achieve its stated goals, nor do I believe it reflects Seattle's values.

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First, there are already laws in force prohibiting the sort of conduct this legislation attempts to address, and I am concerned that there is significant potential for uneven application of the proposed ordinance. Because the definition of 'intimidating' is inherently subjective, I am concerned that it could be used too broadly. Although being asked for money on the street can be uncomfortable, it isn't illegal and the Supreme Court has said repeatedly that this is protected speech. Using physical contact or verbal abuse to cajole someone into giving money is already against the law, and the proposed ordinance won't do anything to address this beyond what current law already allows.

Second, I found the Seattle Human Rights Commission's (SHRC) report compelling. The SHRC points out that while this legislation allows aggressive solicitation to be treated as a civil infraction; in practice this means that indigent individuals will not have access to an attorney to dispute the validity of the citation itself. Because there is no right to counsel for civil infractions, the first opportunity for an indigent person to interact with an attorney will be upon being charged with failure-to-appear, at which time the legitimacy of the citation is no longer the legal question at hand.

Third, the ordinance includes a provision allowing the court to compel individuals to undergo involuntary mental health and chemical dependency testing and treatment. While encouraging treatment is a worthy goal, in this case it represents a circumvention of the normal civil commitment process. Additionally, its presence in the ordinance indicates the City is anticipating a substantial number of individuals who receive citations will fail to pay the fine and/or appear in court. As the SHRC points out, "the greater penalty these individuals then face is problematic" and "[t]he mechanisms of the ordinance – from civil citation, to criminal misdemeanor, to potential involuntary testing and treatment – are highly unusual and serve to create a consequence disproportionate to the offense committed." I feel this is a valid argument, and the due process questions it raises are troubling.

For the reasons I outlined above, I have decided to veto this legislation. While I have deep respect for those of you who voted for the ordinance, I do not feel it is compatible with Seattle's values. Nevertheless, I am committed to working with you to find ways to face these challenges and improve the safety of our streets. We must all stay engaged, and keep working together to address these issues as a City. We can have respectful disagreements on policies, but let's not forget that we all want the same thing: a safe, vibrant city where we all feel welcome.

Yours in service,



Michael McGinn
Mayor

Copy: Mr. Peter Holmes, City Attorney, City of Seattle
Ms. Carol Shenk, City Clerk, City of Seattle
Seattle Human Rights Commission