

ORDINANCE NO. 1211

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON; RELATING TO VEHICULAR AND PEDESTRIAN SAFETY; ADDING A NEW CHAPTER 9.40 TO THE GIG HARBOR MUNICIPAL CODE PROHIBITING SOLICITATION TO OCCUPANTS OF VEHICLES ON PUBLIC ROADWAYS; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, cities are authorized under Titles 35 and 35A RCW to make and enforce by appropriate ordinances all such police regulations as are not in conflict with state law; and

WHEREAS, the City has received numerous communications from citizens regarding solicitation at certain locations as it poses traffic and public safety risks; and

WHEREAS, the City Council took public testimony at the first reading of this Ordinance on May 9, 2011; and

WHEREAS, the City Council considered this Ordinance at second reading on May 23, 2011; and

WHEREAS, based on the testimony received and the information provided, the Gig Harbor City Council believes that it is important to limit the location of certain solicitations to provide for vehicular and pedestrian traffic safety, while allowing safe and appropriate venues for constitutionally protected activities; Now, therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Findings. The City Council makes the following findings of fact:

A. Motor vehicle drivers approached by pedestrians may become distracted, may stop suddenly, or may linger at traffic control devices thereby posing a significant risk of physical injury to themselves, other motorists, and pedestrians; and

B. "Public property" as defined below enables pedestrian and vehicular traffic to safely and efficiently move about from place to place; and

C. Solicitation of persons in or operating motor vehicles may result in car/pedestrian collisions, as well as vehicle collisions caused when vehicles behind the one being solicited move forward without realizing the solicited driver has not moved.

Section 2. New Chapter 9.40. Based upon the above findings, a new chapter 9.40 is hereby added to the Gig Harbor Municipal Code to read as follows:

CHAPTER 9.40 SOLICITATIONS TO OCCUPANTS OF VEHICLES ON PUBLIC ROADWAYS PROHIBITED

Sections:

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| 9.40.010 | Purpose |
| 9.40.020 | Definitions |
| 9.40.030 | Prohibited acts |
| 9.40.040 | Evidence |
| 9.40.050 | Penalty |

9.40.010 Purpose.

The purpose of this chapter is to protect citizens by limiting the location of certain kinds of solicitation and to provide for vehicular and pedestrian traffic safety.

9.40.020 Definitions.

In this chapter:

A. "Goods" means real property, as well as tangible and intangible personal property.

B. "Public property" means:

1. Any property open or devoted to public use or owned by the City; and
2. Any area dedicated to the public use for sidewalk, street, highway, or other transportation purposes, including, but not limited to, any curb, median, parkway, shoulder, sidewalk, alley, drive, or public right-of-way.

C. "Roadway" has the meaning given that term in RCW 46.04.500, as currently adopted or as it may be amended in the future.

D. "Services" means any work done for the benefit of another person.

E. "Solicit" and all derivative forms of "solicit" means any conduct or act whereby a person:

1. Either orally or in writing asks for an immediate ride, employment, goods, services, financial aid, monetary gifts, charity, or any article representing monetary value, for any purpose;
2. Either orally or in writing sells or offers for immediate sale goods, services, or publications;
3. Distributes without remuneration goods, services, or publications; or
4. Solicits signatures on a petition or opinions for a survey.

F. "Vehicle" has the meaning given that term in RCW 46.04.670, as currently adopted or as it may be amended in the future.

9.40.030 Prohibited acts.

A. It is unlawful for any person, while occupying any public property adjacent to or on any public roadway in the City, to knowingly conduct a solicitation directed to, or intended to attract the attention of, the occupant of any vehicle stopped or traveling on the roadway, unless said vehicle is legally parked. An offense occurs when the solicitation is made, whether or not an actual employment relationship is created, a transaction is completed, or an

exchange of money, goods, or services takes place; provided, that nothing herein shall be construed to prohibit activity authorized pursuant to Chapter 5.28 GHMC, Special Events.

- B. It is a defense to prosecution under this section that the person was:
1. Summoning aid or requesting assistance in an emergency situation; or
 2. A law enforcement officer in the performance of official duties.

9.40.040 Evidence.

Evidence to support a conviction for a violation of this chapter may include, but is not limited to, testimony of witnesses, videotape evidence of the violation, and other admissible evidence.

9.40.050 Penalty.

Any violation of any provision of this chapter shall be a misdemeanor, subject to the terms and conditions of Chapter 1.16 GHMC, General Penalty.

Section 3. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

Section 4. Effective Date. This ordinance shall be published and shall take effect and be in full force five (5) days after the date of publication.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this 23rd day of May, 2011.

CITY OF GIG HARBOR



Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:



Molly M. Towslee, City Clerk

APPROVED AS TO FORM:

Office of the City Attorney



Angela S. Belbeck

FILED WITH THE CITY CLERK: 05/05/11
PASSED BY THE CITY COUNCIL: 05/23/11
PUBLISHED: 06/01/11
EFFECTIVE DATE: 06/06/11
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