

ORDINANCE NO. _____

An Ordinance Concerning Panhandling, Encouraging Donations to Services in Lieu of Direct Donations to Panhandlers, Working with Business Owners Concerning Panhandling on Private Property, and Amending Ordinance 1353-87 Concerning Aggressive Begging (Chapter 9.52 EMC)

WHEREAS, donating money to organizations that provide services, rather than donating to panhandlers, can more effectively help people who are experiencing poverty; and

WHEREAS, the City can help educate the public concerning the benefits of donating to organizations that provide services to people experiencing poverty; and

WHEREAS, the City wishes to facilitate such donations by providing an on-line payment mechanism and a dedicated fund; and

WHEREAS, some business owners wish to limit panhandling on their private property, such as parking lots; and

WHEREAS, some business owners are not aware of their authority to regulate conduct in their parking lots for the safety of their customers and may wish to work with the police department to more effectively do so; and

WHEREAS, intentionally blocking free passage in public places such as sidewalks and plazas for purposes of asking for money creates a coercive and intimidating experience for people; and

WHEREAS, regulating intentional conduct that is intimidating and coercive does not interfere with the right to peacefully solicit charity; and

WHEREAS, fines alone have insufficient deterrent effect to curb intimidating and aggressive behavior as described by this ordinance; and

WHEREAS, making the penalty for the intentional intimidating behavior involved in aggressive begging a misdemeanor promotes public safety and provides leverage to steer people in need of services into diversion programs that connect them with social services in the community; and

WHEREAS, the intent of the City's diversion programs is not only to help connect misdemeanor offenders with needed treatment and other services but also to help them avoid a criminal record by dismissing charges upon successful completion of the diversion program; and

WHEREAS, the City has authority to reasonably regulate conduct for the health, safety, and welfare of the public;

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. The City shall develop a public education and outreach campaign emphasizing alternatives to making direct donations to panhandlers, shall create and administer a dedicated fund to be used for services for individuals experiencing poverty, and shall provide signage to business owners discouraging direct donations and providing information on how to donate to the dedicated fund established in this section.

Section 2. The Everett Police Department shall work to educate business owners who have an interest in regulating conduct in their parking lots for the safety of their customers by making more effective use of the business's authority and working with the police department to more effectively enforce laws as appropriate.

Section 3. Section 1 (A) of Ordinance 1353-87 (EMC Chapter 9.52.010), which reads as follows:

It is unlawful for a person to aggressively beg as defined by this section. A person is guilty of aggressive begging if he or she:

- A. Begg in a manner that hinders or obstructs the free passage of any person in a public place; or
- B. By physical action while in the act of begging, intentionally causes or attempts to cause another person reasonably to fear imminent bodily harm or the commission of a criminal act upon their person, or upon property in their immediate possession.

Is hereby amended to read as follows:

~~A. It is unlawful for a person to aggressively beg as defined by this section. A person is guilty commits the offense~~ of aggressive begging if he or she:

~~A1.~~ Begg in a manner that intentionally hinders or obstructs the free passage of any person in a public place; or

~~B2.~~ By words or actions, begs with intent to intimidate another person into giving money or goods, physical action while in the act of begging, intentionally causes or attempts to cause another person reasonably to fear imminent bodily harm or the commission of a criminal act upon their person, or upon property in their immediate possession.

Section 4. Section 1 (B) of Ordinance 1353-87 (EMC Chapter 9.52.020), which reads as follows:

As used in this section:

A. "Bodily harm" means:

1. Physical pain; or
2. An impairment or physical condition.

B. "Hinder or obstruct" means to walk, stand, sit or lie in such a manner as to block or attempt to block or restrict passage by others or to require persons approaching to take evasive action to avoid physical contact.

C. "Public place" is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots and buildings open to the general public, including those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

D. "To beg" means to stop or accost others, or direct persons or animals to stop or accost others, and to ask for money whether by words, bodily gestures, signs or other devices. (Ord. 1353-87 § 1 (B), 1987)

Is hereby amended to read as follows:

As used in this section:

~~A. "Bodily harm" means:~~

~~1. Physical pain; or~~

~~2. An impairment or physical condition.~~

~~BA.~~ "Hinder or obstruct" means to walk, stand, sit or lie in such a manner as to block or attempt to block or restrict passage by others or to require persons approaching to take evasive action to avoid physical contact.

~~CB.~~ "Public place" is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots and buildings open to the general public, including those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

~~DC. "Beg" or "begging" means to ask for money or goods as a charity, whether by words, bodily gestures, signs, or other means. "To beg" means to stop or accost others, or direct persons or animals to stop or accost others, and to ask for money whether by words, bodily gestures, signs or other devices.~~

~~D. "Intimidate" means to engage in conduct that would make a reasonable person fearful or feel compelled.~~

Section 5. Section 1 (C) of Ordinance 1353-87 (EMC Chapter 9.52.030), which reads as follows:

Conduct made unlawful by this chapter constitutes a misdemeanor and any person convicted thereof may be punished by a fine or forfeiture not to exceed one thousand dollars.

is hereby amended to read as follows:

Violation - Penalty. ~~Conduct made unlawful by the chapter constitutes a misdemeanor and any person convicted thereof may be punished by a fine or forfeiture not to exceed one thousand.~~ Aggressive begging is a misdemeanor as defined by EMC 10.04.080.

Section 6. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's errors, clerical errors, references, ordinance numbering, section and subsection numbers, and any references thereto.

Section 7. The City Council hereby declares that should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this Ordinance independent of the elimination here from of any such portion as may be declared invalid.

Section 8. General Duty - It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Ray Stephanson, Mayor

ATTEST:

Sharon Fuller, City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____