

**SULTAN CITY COUNCIL  
AGENDA ITEM COVER SHEET**

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ITEM #:	C-4
DATE:	August 19, 2010
SUBJECT:	Ordinance No. 1083-10 Regulation of Panhandlers
CONTACT PERSON:	Chief Jeff Brand

**ISSUE:**

Staff recommends the City Council adopt Ordinance 1083-10, Regulating Panhandlers.

**STAFF RECOMMENDATION:**

Council can review Ordinance No. 1083 (Attachment A) Regulation of Panhandlers and have Second Reading to adopt the Ordinance.

**SUMMARY:**

Earlier this year Council adopted Ordinance 1078-10, revising SMC Chapter 5.04, an ordinance related to Peddlers and Solicitor regulations.

The issue of aggressive panhandling was also discussed and staff was requested to bring back an ordinance that deals with unwanted panhandling. Many other communities around the country including Seattle and Tacoma have regulated panhandling through their municipal codes.

Many citizens and business owners in Sultan see panhandling as a safety issue, in that they feel unsafe or threatened when approached or accosted by panhandlers. Business owners note that during a struggling economy, we as city government need to do everything we can to detour such activity and make our business district attractive and inviting to potential customers.

A draft "Solicitation" ordinance was brought to the Council at the July 8, 2010 meeting and staff was directed to research possible changes to the draft.

On August 12, 2010 Council reviewed and discussed the updated Panhandler's Ordinance and requested one change to the penalty section of the ordinance and approved the ordinance for first reading. The attached final ordinance includes the requested change by Council.

Based on our City Attorney, Margaret King's advice, staff did not include a prohibition on panhandling near a location where alcohol is served or sold. The definition provides for immediately receiving contributions and currently does not exclude charities.

The ordinance would prohibit panhandling within 15 feet of designated locations and facilities which include an automated teller machine, the entrance of a building, public pay phone, self-service car wash and fuel pump, public transportation stops and parked vehicles. Violation of this section of the ordinance would be a misdemeanor subject to a \$1,000 fine, incarceration for up to 90 days or both.

The ordinance further prohibits panhandling on private property, unless the solicitor has written permission from the property owner or occupant; after sunset or before sunrise; in any public transportation facility or vehicle.

Violation of this section of the ordinance would be a gross misdemeanor subject to a \$5,000 fine, incarceration for up to one year or both.

#### ALTERNATIVES:

- Council can review and approve the attached Panhandler's Ordinance in its current form and adopt on the second reading.
- Council can direct staff to revise the Panhandler's Ordinance
- Council can direct staff to bring alternate draft ordinances for further review
- Council can table the issue and chose not to enact any Panhandler's Ordinance

#### FISCAL IMPACT:

The City of Sultan currently pays the Snohomish County Jail \$92.76 per booking and \$67.00 per day for incarceration. The City also pays the Snohomish County Prosecutor's Office about \$65 per misdemeanor case that is prosecuted.

It is difficult to forecast the number of people that may be arrested, booked and the number of cases prosecuted for Panhandling. Staff estimates just a few; (5-10) people would be booked and prosecuted for this crime annually.

Based on that an estimate of 10 people booked and prosecuted for Panhandling, we expect an increase of not more than \$15,976 per year in our booking and prosecution cases.

#### DISCUSSION:

The issue of panhandlers has been brought before Council and staff by Sultan residents and business people and has mixed support and resistance. Sultan is not alone with this issue as cities like Seattle have been discussing it and struggling with ordinances for a number of years.

Some cities like Seattle have decided there is an inherent right which allows anyone to panhandle any place, any time, while others, like the City of Tacoma believe that people have the right to panhandle under specific circumstances and everyone has the right to feel safe and not be accosted while in the community.

Panhandling can have any number of outcomes such as the panhandler receiving money or goods, citizens felling better about helping another person or citizens choosing to not patronize businesses in Sultan so they are not accosted.

The one fact is that panhandling cannot be totally prohibited by any municipality, only regulated. The attached ordinance is based on the City of Tacoma Panhandler's Ordinance which has been in place since 2007, is a model ordinance with Municipal Research and as of this time, has not been challenged.

RECOMMENDED ACTION:

Review the attached final version of the Sultan Panhandler's Ordinance and adopt Ordinance No. 1083-10 on second reading.

ATTACHMENT: A. Ordinance 1083-10, Sultan Municipal Code 8.12, Regulation of Panhandling.

**CITY OF SULTAN  
WASHINGTON  
ORDINANCE NO. 1083-10**

**AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON,  
ENACTING A NEW CHAPTER 08.12 TITLED "REGULATION  
OF PANHANDLING" PROVIDING A MECHANISM TO  
REGULATE THE PLACE OF PANHANDLING;  
ESTABLISHING EVIDENCE TO SUPPORT A CONVICTION;  
ADOPTING PENALTIES FOR VIOLATION; PROVIDING FOR  
SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE**

WHEREAS, citizens, business owners, and visitors to the City of Sultan have a right to conduct their affairs free from the fear and intimidation accompany certain kinds of panhandling; and

WHEREAS, the preservation of the quality of urban life and safe and appropriate venues for constitutionally protected activities is recognized by the Sultan City Council; and

WHEREAS, the City Council has determined that it is in the interest of the public health, safety and welfare to enact a new Chapter 8.12 of the Sultan Municipal Code;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. New Chapter 8.12. A new Chapter 8.12 "Regulation of Panhandling" is hereby enacted as set forth in Exhibit A.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

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

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE**  
**\_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.**  
**CITY OF SULTAN**

\_\_\_\_\_  
Carolyn Eslick, Mayor

ATTEST/AUTHENTICATED:

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Laura Koenig, City Clerk

Approved as to form:

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Margaret J. King, City Attorney

## CHAPTER 8.12 REGULATION OF PANHANDLING

- 8.12.010 Purpose.
- 8.12.020 Definitions.
- 8.12.030 Place of Panhandling.
- 8.12.040 Panhandling by Coercion.
- 8.12.050 Evidence.
- 8.12.060 Penalties.

### **8.12.010 Purpose.**

The purpose of this chapter is to protect citizens from the fear and intimidation accompanying certain kinds of panhandling, to promote tourism and business, and to preserve the quality of urban life while providing safe and appropriate venues for constitutionally protected activity.

### **8.12.020 Definitions.** In this chapter:

- A. "Automated teller machine" means a machine, other than a telephone:
  - 1. that is capable of being operated by a customer of a financial institution;
  - 2. By which the customer may communicate to the financial institution a request to withdraw, deposit, transfer funds, make payment, or otherwise conduct financial business for the customer or for another person directly from the customer's account or from the customer's account under a line of credit previously authorized by the financial institution for the customer; and
  - 3. The use of which may or may not involve personnel of a financial institution.
  
- B. "Coercion" means:
  - 1. To approach or speak to a person in such a manner as would cause a reasonable person to believe that the person is being threatened with either imminent bodily injury or the commission of a criminal act upon the person or another person or upon property in the person's immediate possession;
  - 2. To persist in panhandling after the person solicited has given a negative response;
  - 3. To block, either individually or as part of a group of persons, the passage of a solicited person;
  - 4. To engage in conduct that would reasonably be construed as intended to compel or force a solicited person to accede to demands;
  - 5. to use violent or threatening gestures toward a person;
  - 6. Willfully providing or delivering, or attempting to provide or deliver, unrequested or unsolicited services or products with a demand or exertion of pressure for payment in return; or
  - 7. To use profane, offensive, or abusive language, this is inherently likely to provoke an immediate violent reaction.
  
- C. "Exterior public pay telephone" means any coin or credit card reader telephone that is:
  - 1. installed or located anywhere on a premises except exclusively in the interior of a building located on the premises; and

2. accessible and available for use by members of the general public.

D. "Public transportation facility" means a facility or designated location that is owned, operated, or maintained by a city, county, county transportation authority, public transportation benefit area, regional transit authority, or metropolitan municipal corporation within the state.

E. "Public transportation stop" means an area officially marked and designated as a place to wait for a bus, a light rail vehicle, or any other public transportation vehicle that is operated on a scheduled route with passengers paying fares on an individual basis.

F. "Public transportation vehicle" has the meaning given that term in RCW 46.04.355, as currently adopted or as it may be amended in the future.

G. "Self-service car wash" means a structure:

1. at which a vehicle may be manually washed by its owner or operator with equipment that is activated by the deposit of money in a coin-operated machine; and
2. that is accessible and available for use by members of the general public.

H. "Self-service fuel pump" means a fuel pump:

1. from which a vehicle may be manually filled with gasoline or other fuel directly by its owner or operator, with or without the aid of an employee or attendant of the premises at which the fuel pump is located; and
2. that is accessible and available for use by members of the general public.

I. "Panhandling and all derivative forms of "solicit" means to ask, beg, or plead, whether orally or in a written or printed manner, for the purpose of immediately receiving contributions, alms, charity, or gifts of items of value for oneself or another person.

### **8.12.030 Place of Panhandling:**

#### **A. Panhandling near designated locations and facilities.**

1. It is unlawful for any person to solicit another person within 15 feet of:
  - a. an automated teller machine or;
  - b. the entrance of a building, unless the solicitor has written permission from the owner or occupant or;
  - c. an exterior public pay telephone or;
  - d. a self-service car wash, unless the panhandler has written permission from the owner or occupant of the business or;
  - e. a self-service fuel pump, unless the panhandler has written permission from the owner or occupant of the business or;
  - f. a public transportation stop; or;
  - g. any parked vehicle as occupants of such vehicle enter or exit such vehicle or;

2. It is unlawful for a person to panhandle from another person:
  - a. on private property, unless the panhandler has written permission from the owner or occupant;
  - b. after sunset or before sunrise;
  - c. in any public transportation facility or vehicle.

B. For purposes of subsection A, measurement will be made in a straight line, without regard to intervening structures or objects, from the nearest point at which a solicitation is being conducted to whichever is applicable of the following:

1. The nearest entrance or exit of a facility in which an automated teller machine is enclosed or, if the machine is not enclosed in a facility, to the nearest part of the automated teller machine;
2. The nearest entrance or exit of a building;
3. The nearest part of an exterior public pay telephone;
4. The nearest part of the structure of a self-service car wash;
5. The nearest part of a self-service fuel pump;
6. The nearest point of any sign or marking designating an area as a public transportation stop; or
7. Any door of a parked vehicle that is being used by an occupant of such vehicle to enter or exit such vehicle.

#### **8.12.040 Panhandling by Coercion.**

It is unlawful for a person to panhandle by coercion.

#### **8.12.050 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.

#### **8.12.060 Penalties.**

Violation of Section 8.12.030 A(1) shall be a misdemeanor and, upon conviction thereof, a person is subject to a penalty of \$1,000, incarceration for up to 90 days, or both a fine and a penalty. Violation of Section 8.12.030 A(2), or 8.12.040 shall be a gross misdemeanor and, upon conviction thereof, a person is subject to a penalty of \$5,000, incarceration for up to one year, or both a fine and a penalty.