

ORDINANCE NO. 2002-02-009

AN ORDINANCE AMENDING BELLINGHAM MUNICIPAL CODE SECTION 10.24.070 TO IMPOSE ENHANCED PENALTIES FOR REPEATED VIOLATIONS OF THE "SITTING OR LYING" LAW.

WHEREAS, Bellingham Municipal Code Section 10.24.070 treats sitting or lying on the public sidewalks as a civil infraction, and

WHEREAS, a number of individuals are repeatedly violating Bellingham Municipal Code Section 10.24.070 without regard for the limited penalties provided for therein or the rights of others, and

WHEREAS, the downtown merchants have requested that this Council take stronger measures to make commercial areas of the City safer and more accessible for shoppers, merchants, and others going about their lawful business, and

WHEREAS, the City needs to adequately deter and punish repeated unlawful behavior that intrudes upon the safe and unhindered access of its citizens and guests to the public rights of way, and

WHEREAS, it is appropriate to treat a person who has violated Section 10.24.070 of the Bellingham Municipal Code three or more times as having committed a misdemeanor,

NOW, THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. Section 10.24.070 of the Bellingham Municipal Code shall be amended as follows:

10.24.070 - Sitting Or Lying On Public Sidewalks Prohibited

A. Prohibition. No person shall sit or lie down upon a public sidewalk, or upon a blanket, chair, stool, bollard, planter, fountain, railing or any other object placed upon a public sidewalk, during the hours between 7:00 a.m. and 9:00 p.m. in the following zones:

1. Central Business District ("CBD"). The Central Business District, for the purposes of this Section, is the area bounded by the streets hereafter named, including said streets and their abutting sidewalks: On the east bounded by State Street from Whatcom Creek to Maple Street, on the south Maple Street from State Street to Cornwall Street to the intersection of Chestnut and Bay Street, on the west from the intersection of Chestnut and Bay Street to Champion Street, on the southwest from Champion Street to the intersection of Cornwall and York Street, on the north from the intersection of Cornwall and York Street to Railroad and up to Whatcom Creek between Railroad and State Street.

2. The Fairhaven Business District ("FBD"). The Fairhaven Business District, for the purposes of this Section, shall be defined by the area bounded by the streets hereafter named, including said streets and their abutting sidewalks: The area bounded by Mill Avenue on the north from 10th Street to 13th Street to Larrabee Avenue on the east, Larrabee Avenue on the south from 13th Street to 10th Street from Larrabee to Mill Avenue on the west. In addition the prohibited area in

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the Fairhaven Business District shall include 12th Street from Larrabee to Cowgill and Harris Avenue from 10th Street to 4th Street.

B. Exceptions. The prohibitions in subsection A shall not apply to any person:

1. Sitting or lying down on a sidewalk due to a medical emergency.
2. Who, as the result of a disability, utilizes a wheelchair, walker, or similar device to move about the public sidewalk.
3. Operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a street use permit; or a person participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on the public sidewalk pursuant to a street use or other applicable permit;
4. Sitting on a chair or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner;
5. Sitting on a public sidewalk within a bus stop zone while waiting for public or private transportation.

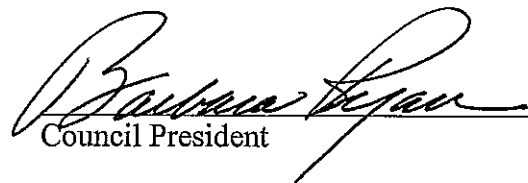
Nothing in any of these exceptions shall be construed to permit any conduct which is prohibited by BMC Section 10.24.010 (Disorderly Conduct) or BMC Section 10.24.040 (Pedestrian Interference).

C. No person shall be cited under this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this Section.

D. A violation of this section shall be a civil infraction and shall subject the violator to a fine of up to \$250, plus statutory assessment. If the person is unable to pay the monetary penalty, the court may order performance of a number of hours of community service in lieu of a monetary penalty. The default amount shall be \$100.

E. Notwithstanding and in lieu of the penalties provided under paragraph D of this section, a person violating this section shall, upon conviction for a third or subsequent offense, be guilty of having committed a criminal misdemeanor and shall be punished by a fine not to exceed \$500 or imprisonment not to exceed 90 days, or by both such fine and imprisonment.

PASSED by Council this 4TH day of FEBRUARY, 2002.


Council President

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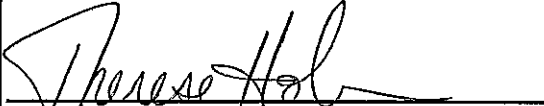
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APPROVED by me this ___ day of _____, 2002.



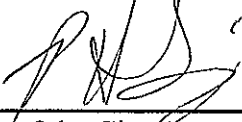
Mayor

ATTEST:



Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

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