

ORDINANCE No.

116538

COUNCIL BILL No.

109525

*Law Department*

*Amended*

The City of

AN ORDINANCE authorizing the closure of certain areas under bridges, viaducts and overpasses; prohibiting entry as a crime; and amending Section 11.34.020B and adding new Sections 11.16.122 and 11.40.430 to the Seattle Traffic Code.

Honorable President:

Your Committee on \_\_\_\_\_

to which was referred the within Council report that we have considered the \_\_\_\_\_

COMPTROLLER FILE No. \_\_\_\_\_

Introduced: JAN 1 1 1993	By: PAGELER
Referred: JAN 1 1 1993	To: Public Safety
Referred:	To:
Referred:	To:
Reported: JAN 1 9 1993	Second Reading: JAN 1 9 1993
Third Reading: JAN 1 9 1993	Signed: JAN 1 9 1993
Presented to Mayor: JAN 1 9 1993	Approved: JAN 2 3 1993
Returned to City Clerk: JAN 2 2 1993	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

*Full Council*

OK

Department

# The City of Seattle--Legislative Department

Date Reported  
and Adopted

## REPORT OF COMMITTEE

President:

Committee on \_\_\_\_\_

was referred the within Council Bill No. \_\_\_\_\_

that we have considered the same and respectfully recommend that the same:

*Full Council vote 7-0*

\_\_\_\_\_  
Committee Chair

ORDINANCE 116538

1  
2 AN ORDINANCE authorizing the closure of certain areas under  
3 bridges, viaducts and overpasses; prohibiting entry as a  
4 crime; and amending Section 11.34.020B and adding new  
5 Sections 11.16.122 and 11.40.430 to the Seattle Traffic  
6 Code.

7 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

8 Section 1. There are added to the Seattle Municipal Code  
9 Title 11 (the Seattle Traffic Code) two new sections, as  
10 follows:

11 **11.16.122 Authority to close certain areas under Bridges,  
12 Viaducts, and Overpasses.**

13 The Director of Engineering is authorized, in accordance  
14 with the Administrative Code (Chapter 3.02), to close off from  
15 entry or use by the public any public place under the structure  
16 of a bridge, viaduct or overpass, other than a roadway as  
17 defined in Section 11.14.530 or a paved pedestrian walkway,  
18 whenever and for as long as the Director deems closure of the  
19 area to be necessary in order to preserve the public peace,  
20 accommodate construction or maintenance work, prevent injury to  
21 the public, or respond to any identified danger to the public  
22 health or safety.

23 Upon ordering its closure, the Director shall cause the  
24 area to be enclosed with fencing, or posted with "no admittance"  
25 or "no trespassing" signs, or both enclosed and posted.

26 **11.40.430 Prohibited entry to no admittance area.**

27 No person shall enter or go upon any area which, pursuant  
28 to Section 11.16.122, is enclosed with fencing, or posted with  
"no admittance" or "no trespassing" signs, or both enclosed and  
posted. In any prosecution under this section, it is an  
affirmative defense that the actor was a duly authorized City  
employee in the performance of his or her duties, was authorized  
by the Director, or was a law enforcement officer in the course  
of law enforcement duties.



1           Section 2. Subsection B of Seattle Municipal Code Section  
2 11.34.020 (Ordinance 108200, Section 2 (11.34.020) (part), as  
3 last amended by Ordinance 115757, Section 1) is further amended  
4 as follows:

5           B. Any person convicted of any of the following offenses  
6 may be punished by a fine in any sum not to exceed One Thousand  
7 Dollars (\$1,000.00) or by imprisonment for a term not to exceed  
8 ninety (90) days, or by both such fine and imprisonment:

9           1. Section 11.20.010, Driver's license required --  
10 Exception;

11           2. Section 11.20.100, Display of nonvalid driver's  
12 license;

13           3. Section 11.20.120, Loaning driver's license;

14           4. Section 11.20.140, Displaying the driver's license  
15 of another;

16           5. Section 11.20.160, Unlawful use of driver's  
17 license;

18           6. Section 11.20.250 C, Providing false evidence of  
19 financial responsibility;

20           7. Section 11.31.090, Failure to respond -- Written  
21 and signed promise;

22           8. Section 11.31.100, Failure to respond -- Parked,  
23 stopped or standing notice;

24           9. Section 11.32.100, Failure to appear;

25           10. Section 11.40.430, Prohibited entry to no  
26 admittance area;

27           11. ((10-)) Section 11.56.230 B, Driving while license  
28 is suspended or revoked in the third degree;

12. ((11-)) Section 11.56.430, Hit and run (unattended  
vehicle) -- Duty in case of accident with unattended vehicle;

13. ((12-)) Section 11.56.440, Hit and run (property  
damage) -- Duty in case of accident with property;

1            14. (~~13~~) Section 11.58.190, Leaving minor children  
2 in unattended vehicle;

3            15. (~~14~~) Section 11.59.010, Obedience to peace  
4 officers, flaggers, and firefighters;

5            16. (~~15~~) Section 11.59.040, Refusal to give  
6 information to or to cooperate with officer;

7            17. (~~16~~) Section 11.59.060, Refusal to stop;

8            18. (~~17~~) Section 11.59.080, Examination of  
9 equipment;

10           19. (~~18~~) Section 11.59.090, Duty to obey peace  
11 officer -- Traffic infraction;

12           20. (~~19~~) Section 11.34.040, Aiding and abetting  
13 with respect to the criminal offenses in this subsection.  
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(To be used for all Ordinances except Emergency.)

Section.....3. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 19th day of January, 19 93  
and signed by me in open session in authentication of its passage this 19th day of  
January, 1993 Geo. F. Benson  
President.....of the City Council.

Approved by me this 22nd day of January, 19 93  
Howard B. Rice  
Mayor.

Filed by me this 22nd day of January, 19 93

(SEAL)

Published.....

By Margaret Carter  
Deputy Clerk.

**SEATTLE CITY ATTORNEY**  
**MARK H. SIDRAN**

November 6, 1992

Honorable Norman B. Rice  
Mayor  
Honorable Margaret Pageler  
Seattle City Council

Dear Mayor Rice and Councilmember Pageler:

Attached for your consideration is a proposed ordinance to allow the closure to public entry of certain areas beneath the City's bridges, viaducts and overpasses. This proposed ordinance is made necessary by court rulings dismissing trespass prosecutions against persons who congregate beneath the Alaskan Way Viaduct near the Pike Place Market. Because of the serious public safety concerns posed, we urge you to enact the proposed ordinance as soon after the budget process as possible.

The legislation would give the Engineering Director explicit authority to close these areas if necessary to preserve the public peace, prevent injury to the public, respond to an identified danger to the public health or safety, or accommodate construction or maintenance work. Only areas either needed for maintenance work or unimproved for travel could be closed. Closed areas would be posted; trespass into posted areas would be a misdemeanor.

Problems caused by persons who congregate in these areas have been particularly serious near the Pike Place Market. The area beneath the Alaskan Way Viaduct has become a haven for illegal drug sales, and a site for assaults and even homicides. This location also is favored as a hideout for predators who commit purse snatches, "grab-and-run" thefts, and car prowls against Market and Waterfront area visitors and merchants.

Police statistics underscore the extent of the problem. In 1991, for example, the area bordered by Blanchard Street, Western Avenue, Pike Street, and the waterfront experienced 16 reported assaults, three robberies, six car thefts, 20 cases of property damage, and 130 car prowls.

Encampments beneath the Viaduct and other structures also create sanitation and other public health hazards. Inaccessible terrain and other factors make difficult any fire and medical aid responses to these areas. Accidental fires beneath these structures also may block traffic.

Continued: Mayor Rice and Councilmember Pageler  
November 6, 1992  
Page 2

To control this situation, the Engineering Department in 1986 posted unimproved areas beneath the Viaduct near the Market as no-trespassing zones. Persons found in these areas were cited for Criminal Trespass. Police report the Criminal Trespass Ordinance had been an effective enforcement tool, helping to combat car prowls, thefts and narcotics activity.

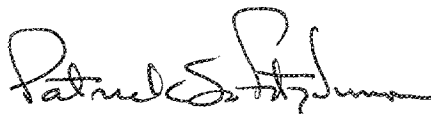
However, a majority of Seattle Municipal Court judges now dismiss these prosecutions, holding that the Engineering Department cannot exclude persons from beneath viaducts and bridges unless it is given specific ordinance authority to do so. This position has been affirmed on appeal to King County Superior Court and we currently do not anticipate further appealing the decision. Therefore, we have been forced to stop filing these charges and officers have been directed not to issue citations.

These health and public safety problems will become significantly worse unless the City's authority to exclude persons from these areas under reasonable circumstances is made explicit. We therefor urge adoption of the attached ordinance as soon as possible.

Sincerely,



Mark H. Sidran  
Seattle City Attorney



Patrick S. Fitzsimons  
Chief of Police

Att.



92-330

# City of Seattle

Executive Department—Office of Management and Budget

Diana Gale, Director  
Norman B. Rice, Mayor



November 10, 1992

COPY RECEIVED

The Honorable Mark Sidran  
City Attorney  
City of Seattle

*OK 11/12/92  
dc*

NOV 10 1992

SEATTLE CITY ATTORNEY

Dear Mr. Sidran:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING  
DEPARTMENT: City Attorney/Police

SUBJECT: AN ORDINANCE authorizing the closure of certain areas under bridges, viaducts and overpasses; prohibiting entry as a crime; and amending Section 11.34.020B and adding new Sections 11.16.122 and 11.40.430 to the Seattle Traffic Code.

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMB. Any specific questions regarding the legislation can be directed to Doug Carey, at 4-8080.

Sincerely,

Norman B. Rice  
Mayor

by

DIANA GALE  
Budget Director

DG\dc\lw

Enclosure

cc: City Attorney  
Chief of Police

TIME AND DATE STAMP

**SPONSORSHIP**

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY  
THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

*Margaret Peeler*

_____	_____
_____	_____
_____	_____
_____	_____

**FOR CITY COUNCIL PRESIDENT USE ONLY**

COMMITTEE(S) REFERRED TO:

_____
_____
_____

\_\_\_\_\_  
PRESIDENT'S SIGNATURE

STATE OF WASHINGTON - KING COUNTY

26029

City of Seattle

--ss.

No. IN FULL

City of Seattle

ORDINANCE 116538

AN ORDINANCE authorizing the closure of certain areas under bridges, viaducts and overpasses, prohibiting entry as a crime, and amending Section 11.34.090B and adding new Sections 11.16.122 and 11.40.430 to the Seattle Traffic Code.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. There are added to the Seattle Municipal Code Title 11 (the Seattle Traffic Code) two new sections, as follows:

11.16.122 Authority to close certain areas under bridges, viaducts, and Overpasses.

The Director of Engineering is authorized, in accordance with the Administrative Code (Chapter 3.02), to close off from entry or use by the public any public place under the structure of a bridge, viaduct or overpass, other than a roadway as defined in...

NOTICE OF ARREST AND SEIZURE

See below for notices relating to the US Customs, Marshal's, Drug Enforcement Administration, Internal Revenue Dept., or other federal agencies.



with the court, or the service on you of this summons will be void. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time. One method of serving a copy of your response on the petitioner is to send it by certified mail with return receipt requested. This summons is issued pursuant to RCW 4.28.100 and Superior Court Civil Rule 41 of the State of Washington. Dated: January 26, 1993. DARYL BODEN, Petitioner. File original with the Clerk of the Court at: Serve a copy of your response on: Petitioner, DARYL BODEN, on: Petitioner, DARYL BODEN, Address: 4211 S. 176th, Seattle, WA 98188. (3/35747) 3/35747

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

ORD:116538

was published on 02/03/93

The amount of the fee charged for the foregoing publication is the sum of \$ , which amount has been paid in full.

C. Freymuth

02/03/93 Subscribed and sworn to before me on [Signature]

Notary Public for the State of Washington, residing in Seattle