



SEATTLE CITY COUNCIL

Legislative Summary

CB 119487

Record No.: CB 119487

Type: Ordinance (Ord)

Status: Passed

Version: 3

Ord. no: Ord 125805

In Control: City Clerk

File Created: 03/13/2019

Final Action: 04/19/2019

Title: AN ORDINANCE relating to public accommodations; requiring persons owning or managing a place of public accommodations to activate closed captioning on television receivers; and adding a new Chapter 14.05 to the Seattle Municipal Code.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Herbold

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments:

Drafter: Emilia.Sanchez@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

☐ Yes

☐ No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Clerk	03/19/2019	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	03/21/2019	sent for review	Civil Rights, Utilities, Economic Development, and Arts Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Civil Rights, Utilities, Economic Development, and Arts Committee						
	Notes:						
1	City Council	03/25/2019	referred	Civil Rights, Utilities, Economic Development, and Arts Committee			

- 1 Civil Rights, Utilities, 03/26/2019 discussed
Economic Development,
and Arts Committee
Action Text: The Council Bill (CB) was discussed.
Notes:

- 1 Civil Rights, Utilities, 04/09/2019 pass as amended Pass
Economic Development,
and Arts Committee
Action Text: The Committee recommends that City Council pass as amended the Council Bill (CB).
Notes:

In Favor: 3 Chair Herbold, Vice Chair Sawant, Member O'Brien
Opposed: 0

- 2 City Council 04/15/2019 passed as amended Pass
amended
Action Text: The Motion carried, the Council Bill (CB) was passed as amended by the following vote, and the
President signed the Bill:
Notes: ACTION 1:

Motion was made by Councilmember Herbold, duly seconded and carried, to amend Council Bill 119487, by adding a new Section 2, and renumbering the remaining section number accordingly, as shown in the underlined language below:

Section 2. The Council requests that the Office for Civil Rights determine the race and social justice impacts of requiring that places of public accommodation activate closed captioning, particularly on immigrant- or refugee-run businesses or those businesses requiring translation or additional technical assistance to understand their obligations under this law and assess how to mitigate potential impacts to those businesses. The Office for Civil Rights shall submit this report to the Chair of the Civil Rights, Utilities, Economic Development and Arts Committee within 180 days of the effective date of the ordinance introduced as Council Bill 119487.

ACTION 2:

Motion was made and duly seconded to pass Council Bill 119487 as amended.

In Favor: 8 Councilmember Bagshaw, Councilmember González, Council President Harrell, Councilmember Herbold, Councilmember Juarez, Councilmember Mosqueda, Councilmember O'Brien, Councilmember Sawant

Opposed: 0

- 3 City Clerk 04/17/2019 submitted for Mayor
Mayor's signature
3 Mayor 04/19/2019 Signed
3 Mayor 04/19/2019 returned City Clerk
3 City Clerk 04/19/2019 attested by City Clerk
Action Text: The Ordinance (Ord) was attested by City Clerk.

Notes:

CITY OF SEATTLE

ORDINANCE 125805

COUNCIL BILL 119487

AN ORDINANCE relating to public accommodations; requiring persons owning or managing a place of public accommodations to activate closed captioning on television receivers; and adding a new Chapter 14.05 to the Seattle Municipal Code.

WHEREAS, the purpose of the Commission for People with disAbilities is to: (1) Promote equal opportunities for individuals with disabilities; (2) Strive to enable full participation in all aspects of community life for persons with disabilities; and (3) Provide disability-related technical assistance, information, referral and advocacy to City Council personnel, the community, individuals and groups; and

WHEREAS, The Commission for People with disAbilities is authorized to coordinate and provide recommendations to City personnel, citizens commissions, authorities, and committees; and community individuals and groups serving on annually designated programs to respond to identified service needs; and

WHEREAS, The Commission for People with disAbilities agrees with the findings of the City Council of Portland, Oregon in adopting Ordinance 187454 (which added Portland City Code Section 23.01.075), which requires activating closed captioning, where available, on televisions used in places of public accommodation, namely that:

“1. Hearing loss is a significant problem in the United States. A study released in 2011 by researchers at Johns Hopkins estimated that approximately one in five Americans have some type of hearing loss in one or both ears that affect their ability to communicate and receive information.¹

¹ https://www.hopkinsmedicine.org/news/media/releases/one_in_five_americans_has_hearing_loss

1 2. In 1993, the Federal Communications Commission ("FCC") adopted
2 regulations requiring all analog television receivers manufactured and sold in the United
3 States with screens larger than 13 inches contain built-in decoder circuitry to display
4 closed captioning.

5 3. Closed captioning consists of a transcript of the audio portions of television
6 programming displayed on the television receiver screen when the user activates the
7 caption feature.

8 4. In 1996, Congress amended the Communications Act to require that all video
9 program distributors (including broadcasters, cable operators, etc.) add closed captioning
10 to certain video programming and authorized the Federal Communications Commission
11 (the FCC) to establish a transition schedule for complying with this requirement.

12 5. Following Congress's legislative directive, the FCC adopted administrative
13 rules to ensure that video programming be accessible by closed captioning to the
14 maximum extent possible. 47 CFR Part 79 sets forth the FCC's standards for accessibility
15 of video programming.

16 6. In 2002, the FCC adopted closed captioning requirements for digital television
17 receivers.

18 7. Under the FCC's rules, video program distributors are required to add closed
19 captioning to all new English language programming. Starting in 2010, a similar
20 requirement has applied to Spanish language programming. The FCC also requires video
21 program distributors to add closed captioning to a certain percentage of previously
22 broadcast programs.

1 8. In 2010, Congress enacted the Communications and Video Accessibility Act
2 ("CVAA"), extending the scope of closed captioning requirements to all devices that can
3 play back video. Since September 30, 2012, new TV programming shown online is
4 required to have closed captioning rendered as well.

5 9. Television receivers are increasingly used in facilities open to the general
6 public, including hospital waiting rooms, bars and restaurants, health clubs, bus stations,
7 airport lounges, and appliance stores. These and other public facilities represent the kinds
8 of locations where the general public has access to television programming.

9 10. Television receivers in these locations enable members of the general public
10 to obtain the latest news reports in an emergency, watch local sports teams, or simply
11 pass the time while waiting for an appointment or service to be completed. People with
12 hearing disabilities should not be excluded from being able to meaningfully participate in
13 these activities while in public areas.

14 11. In order to avoid screening out those members of the general public who are
15 deaf or hard of hearing in places of public accommodation, there should be a requirement
16 closed captioning be activated so as to not exclude, deny service, segregate or otherwise
17 treat those with hearing disabilities differently from being able to fully participate in or
18 experience the full benefits of the television programming offered to the public in those
19 settings..."; and

20 WHEREAS, in addition to benefitting members of the public who are deaf or hard of hearing,
21 closed captioning also benefits people with learning disabilities, sensory disabilities,
22 attention deficits, and autism, as well as the elderly and persons learning English as a
23 second language; and

WHEREAS, closed captioning can help the general public with learning names and terminology, comprehension of dialogue, and better understanding in sound-sensitive environments;

WHEREAS, various types of programming may be exempt from state or federal closed-captioning requirements, such as locally produced and distributed non-news programs with no repeat value, primarily textual programming, or video programming for which closed captioning has been waived, and such programming will not have closed captioning regardless of whether the television receiver is activated; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Chapter 14.05 is added to the Seattle Municipal Code as follows:

CHAPTER 14.05 CLOSED CAPTIONING IN PLACES OF PUBLIC

ACCOMMODATION

14.05.010 Definitions

For purposes of this Chapter 14.05:

“Agency” means the Seattle Office for Civil Rights.

“City” means The City of Seattle.

“Closed captioning” means a transcript or dialog of the audio portion of a television program that is displayed on either the bottom or top portion of a television receiver screen when the user activates the feature.

“Closed-captioned television receiver” means a receiver of television programming that has the ability to display closed captioning, including but not limited to a television, digital set top box, and other technology capable of displaying closed captioning for television programming.

1 “Covered entity” means any place of public accommodation in Seattle.

2 “Director” means the Director of the Seattle Office for Civil Rights.

3 “Person” means one or more individuals, partnerships, organizations, trade or
4 professional associations, corporations, legal representatives, trustees, trustees in bankruptcy and
5 receivers. It includes any owner, lessee, proprietor, manager, agent, or employee, whether one or
6 more natural persons, and any political or civil subdivision or agency or instrumentality of the
7 City.

8 “Place of public accommodation” means any place, licensed or unlicensed, where the
9 public gathers, congregates, or assembles for amusement, recreation or public purposes, or any
10 place, store, or other establishment that supplies goods or services with or without charge to the
11 general public. “Place of public accommodation” includes, but is not limited to, the following
12 types of services or facilities: hotels, or other establishments which provide lodging to transient
13 guests; restaurants, cafeterias, lunchrooms, lunch counters, soda fountains or other facilities
14 principally engaged in selling or offering for sale food for consumption upon or off the premises;
15 public restrooms; public elevators; motion picture houses, theatres, concert halls, sport arenas,
16 stadiums, or other places of exhibition or entertainment; bowling alleys, pool halls, arcades, and
17 amusement parks; retail establishments; transportation carriers; barber shops and beauty shops;
18 bars or taverns or other facilities engaged in selling or offering for sale alcoholic beverages for
19 consumption upon the premises; and public burial facilities.

20 “Public area” means any part of a place of public accommodation that is open to the
21 general public.

22 “Regular hours” means the hours of any day in which a place of public accommodation is
23 generally open to members of the general public.

1 “Respondent” means any person who is alleged or found to have committed a violation of
2 regulations established in this Chapter 14.05.

3 **14.05.020 Requirements for closed captioning in places of public accommodation**

4 A. Any person owning or managing a place of public accommodation must activate
5 closed captioning, with black background color, white text color, text size of 24, and text font of
6 Arial, Calibri, Helvetica, Tahoma, or Verdana, on all closed-captioned television receivers in use
7 in any public area during regular hours, except in the following circumstances:

8 1. No receiver of television programming of any kind is available in a public area
9 of the place of public accommodations;

10 2. The only receiver of television programming available in a public area of the
11 place of public accommodation is technically incapable of displaying closed captioning; or

12 3. If multiple television models are displayed together for sale in a public area, for
13 each of those models, at least one closed-captioned television must be available for viewing.

14 **14.05.030 Enforcement**

15 A. Powers and duties

16 1. The Agency shall investigate alleged violations of this Chapter 14.05 and shall
17 have such powers and duties in the performance of these functions as are defined in this Chapter
18 14.05 and otherwise necessary and proper in the performance of the same and provided for by
19 law.

20 2. The Director is authorized and directed to promulgate rules to enforce this
21 Chapter 14.05.

1 B. Reporting and investigation of violations. The Agency may investigate any violations
2 of this Chapter 14.05. Individual reporting of a violation of this Chapter 14.05 should include a
3 statement of the date, location, and entity or entities responsible for such violation.

4 C. Advisory letter and notice of violation

5 1. If, after 180 days from the effective date of the ordinance introduced as Council
6 Bill 119487, it is determined that a covered entity is not in compliance with the requirements set
7 out in this Chapter 14.05, the Director shall, by service of an advisory letter by first-class mail or
8 electronic mail, notify the respondent of the violation and request that the respondent provide a
9 written response to the Director within 30 business days from the date of the advisory letter
10 either disputing the occurrence of the violation or describing how the violation has been abated
11 and how such violations will be prevented from reoccurring.

12 2. If the respondent fails to provide a written response within 30 business days, or
13 the written response fails to reasonably satisfy the Director, the Director may issue a notice of
14 violation. This notice of violation will include a requirement to pay a civil penalty of up to \$125.
15 Subsequent violations shall result in a civil penalty of up to \$300.

16 D. A respondent may appeal the violation by requesting a contested hearing before the
17 Hearing Examiner in writing within 15 days of the date of the notice of violation. If the
18 respondent fails to timely appeal the violation, the violation and accompanying civil penalty shall
19 be final and enforceable. When the last day of the appeal period so computed is a Saturday,
20 Sunday, or federal or City holiday, the period shall run until 5 p.m. on the next business day.

21 E. Appeal procedure and failure to appear

22 1. Contested hearings shall be conducted pursuant to the procedures for hearing
23 contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for

1 hearing contested cases. The Director shall have the burden of proof by a preponderance of the
2 evidence before the Hearing Examiner. Failure to appear for a requested hearing will result in an
3 order being entered finding that the cited respondent committed the violation stated in the
4 Director's notice of violation. For good cause shown and upon terms the Hearing Examiner
5 deems just, the Hearing Examiner may set aside an order entered upon a failure to appear.

6 2. In all contested cases, the Hearing Examiner shall enter an order affirming,
7 modifying, or reversing the violation. In determining the amount of the civil penalty to be
8 imposed for violations of the provisions of this Chapter 14.05, the Hearing Examiner may
9 consider:

- 10 a. The extent and nature of the person's involvement in the violation;
11 b. The harms, whether economic, financial or otherwise, which occurred
12 or were suffered as a result of the violation;
13 c. Whether the violations were isolated or temporary, or repeated or
14 continuous;
15 d. The magnitude and seriousness of the violation;
16 e. The City's cost of investigating the violations and correcting or
17 attempting to correct the violation; and
18 f. Any other applicable facts bearing on the nature and seriousness of the
19 violation.

20 3. If a respondent fails to comply with any final order issued by the Director or
21 the Hearing Examiner, the Director may refer the matter to the City Attorney for the filing of a
22 civil action a court of competent jurisdiction to enforce such order.

23 **14.05.040 Exclusions**

1 A. This Chapter 14.05 shall not be interpreted or applied to diminish or conflict with any
2 requirements of state or federal law. In the event of any conflict, state and federal requirements
3 shall supersede the requirements of this Chapter 14.05.

4 B. This Chapter 14.05 does not apply to programming that is exempt from closed
5 captioning requirements under state or federal law.

6 Section 2. The Council requests that the Office for Civil Rights determine the race and
7 social justice impacts of requiring that places of public accommodation activate closed
8 captioning, particularly on immigrant- or refugee-run businesses or those businesses requiring
9 translation or additional technical assistance to understand their obligations under this law and
10 assess how to mitigate potential impacts to those businesses. The Office for Civil Rights shall
11 submit this report to the Chair of the Civil Rights, Utilities, Economic Development and Arts
12 Committee within 180 days of the effective date of the ordinance introduced as Council Bill
13 119487.

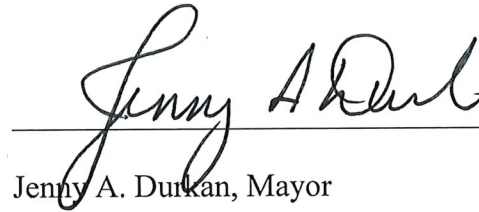
Section 3. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 15th day of April, 2019,
and signed by me in open session in authentication of its passage this 15th day of
April, 2019.



President _____ of the City Council

Approved by me this 19th day of APRIL, 2019.


Jenny A. Durkan, Mayor

Filed by me this 19th day of April, 2019.



Monica Martinez Simmons, City Clerk

(Seal)



SUMMARY and FISCAL NOTE*

Department:	Dept. Contact/Phone:	CBO Contact/Phone:
LEG	Asha Venkataraman/4-5382	

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to public accommodations; requiring persons owning or managing a place of public accommodations to activate closed captioning on television receivers; and adding a new Chapter 14.05 to the Seattle Municipal Code.

Summary and background of the Legislation: This legislation requires closed captioning to be turned on in the public areas of all places of public accommodations during regular business hours. In addition to benefitting members of the public who are deaf or hard of hearing, closed captioning also benefits people with learning disabilities, sensory disabilities, attention deficits, and autism, as well as the elderly and persons learning English as a second language and closed captioning can help the general public with learning names and terminology, comprehension of dialogue, and better understanding in sound-sensitive environments;

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ____ Yes ☒ No

If yes, please fill out the table below and attach a new (if creating a project) or marked-up (if amending) CIP Page to the Council Bill. Please include the spending plan as part of the attached CIP Page. If no, please delete the table.

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? ____ Yes ☒ No

If there are no changes to appropriations, revenues, or positions, please delete the table below.

Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

If so, describe the nature of the impacts. This could include increased operating and maintenance costs, for example.

Yes – passage of the legislation needs to be accompanied by outreach and education efforts, including to the businesses that will have to implement these requirements and particularly to small businesses that may require translation or more technical assistance. This could cost between \$25,000 and \$50,000. Depending on how compliance develops, an additional staff person may also be needed to manage the workload of effectively enforcing this law.

Is there financial cost or other impacts of *not* implementing the legislation?

Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs or consequences.

No.

If there are no changes to appropriations, revenues, or positions, please delete sections 3.d., 3.e., and 3.f. and answer the questions in Section 4.

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?

If so, please list the affected department(s) and the nature of the impact (financial, operational, etc.).

The Seattle Office for Civil Rights will enforce this legislation.

This ordinance applies to all City departments, offices, and programs that have closed captioned television receivers in any public area during the hours when open to the public.

b. Is a public hearing required for this legislation?

If yes, what public hearing(s) have been held to date, and/or what public hearing(s) are planned/required in the future?

No.

c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?

If yes, please describe the measures taken to comply with RCW 64.06.080.

No.

d. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

For example, legislation related to sale of surplus property, condemnation, or certain capital projects with private partners may require publication of notice. If you aren't sure, please check with your lawyer. If publication of notice is required, describe any steps taken to comply with that requirement.

No.

e. Does this legislation affect a piece of property?

If yes, and if a map or other visual representation of the property is not already included as an exhibit or attachment to the legislation itself, then you must include a map and/or other visual representation of the property and its location as an attachment to the fiscal note. Place a note on the map attached to the fiscal note that indicates the map is intended for illustrative or informational purposes only and is not intended to modify anything in the legislation.

No.

f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities?

If yes, please explain how this legislation may impact vulnerable or historically disadvantaged communities. Using the racial equity toolkit is one way to help determine the legislation's impact on certain communities.

People with disabilities have been historically marginalized and denied equal access to public accommodations. Though turning on closed captioning is already required by law if a person asks for them to be turned on, this legislation will shift the burden of effort from a person with disabilities to the business with a television capable of closed captioning.

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).

This answer should highlight measurable outputs and outcomes.

List attachments/exhibits below:

STATE OF WASHINGTON -- KING COUNTY

--SS.

373406

No. 125805 125806

CITY OF SEATTLE, CLERKS OFFICE

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

CT: TITLE ONLY 125804

was published on

05/03/19

The amount of the fee charged for the foregoing publication is the sum of \$77.63.



Affidavit of Publication

A handwritten signature in blue ink, appearing to be "M. L. P.", written over a horizontal line.

Subscribed and sworn to before me on

05/03/2019

A handwritten signature in blue ink, appearing to be "A. L. P.", written over a horizontal line.

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

The full text of the following legislation, passed by the City Council on April 15, 2019, and published below by title only, will be mailed upon request, or can be accessed at <http://seattle.legistar.com>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>.

Ordinance 125804

Council Bill 119495

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

Ordinance 125805

Council Bill 119487

AN ORDINANCE relating to public accommodations; requiring persons owning or managing a place of public accommodations to activate closed captioning on television receivers; and adding a new Chapter 14.05 to the Seattle Municipal Code.

Ordinance 125806

Council Bill 119490

AN ORDINANCE relating to the Central Waterfront Improvement Program; authorizing the Director of the Office of the Waterfront and Civic Projects to execute an agreement with the Washington State Ferry system for the construction of facilities to support electrification of ferry vessels at the Colman Ferry Terminal; amending Ordinance 125724, which adopted the 2019 Budget, including the 2019-2024 Capital Improvement Program (CIP); changing appropriations to the Seattle Department of Transportation; revising revenue allocations and spending plans for certain projects in the 2019-2024 CIP; and ratifying and confirming certain prior acts; all by a 3/4 vote of the City Council.

Date of publication in the Seattle Daily Journal of Commerce, May 3, 2019.

5/3(373406)