

ORDINANCE No.

*Enact a portion of the Public Sidewalk Management Plan by creating a legal framework to manage usage of the sidewalk based on Americans with Disabilities Act requirements (Ordinance; replace Code Section 14A.50.030)

The City of Portland ordains:

Section 1. The Council finds

1. Resolution 36743, approved by the Portland City Council on October 21, 2009, outlined the elements of a new Public Sidewalk Management Plan (PSMP) that will balance the demands of the broad range of sidewalk users in a way that respects everyone's legal rights and makes Central Portland the nation's best place to do business, work, live and visit.
2. This ordinance implements the element of the PSMP that directed the Office of the Mayor and Office of the City Attorney to develop new code provisions to implement the sidewalk passage and accessibility requirements of the federal Americans with Disabilities Act.
3. Under federal and state law, local governments have primary responsibility for the management of public sidewalks.
4. The proper regulation of public sidewalks must provide for multiple beneficial uses, the safety of sidewalk users, efficient movement of people and delivery of goods and services, as well as access to public spaces for full lawful use.
5. It is important to the City of Portland that the public be able to use sidewalks as places of permitted commerce and to socialize, gather and speak.
6. Commercial, pedestrian and social uses along with public sidewalk furniture and infrastructure such as bicycle racks, signal controller boxes, drinking fountains, fire hydrants, parking meters, transit shelters, light poles, mail boxes, telephones, retail and commercial doorways, garbage cans, newspaper boxes, benches, permitted carts and cafés, "A" board signs, planters and public art, among other items, are all necessary and beneficial uses of sidewalks but can be in conflict.
7. Currently, beneficial uses of sidewalks in high pedestrian traffic areas come into unnecessary conflict due to lack of regulation, and lack of consistent enforcement of existing laws and regulations.
8. Public sidewalks are a public service and pedestrian facility that must be designed and operated in compliance with the accessibility standards in the *Architectural Barriers Act of 1968*, the *Rehabilitation Act of 1973* (Section 504), and the *Americans with Disabilities Act of 1990*.

9. A variety of users need to use Portland's sidewalk system, and they vary greatly in agility, balance, cognition, coordination, endurance, flexibility, hearing, problem solving, strength, vision, and walking speed.
10. The design and management of public sidewalks must accommodate pedestrians of all abilities as required by law and consistent management is particularly important to those with disabilities such as older adults, persons with vision impairments, and children who have limited travel choices and must rely on public pedestrian right-of-ways.
11. The United States Department of Transportation estimates that approximately 20 percent of Americans have a disability, and that percentage is increasing.
12. As estimated by the United States Department of Transportation, by the year 2030, one in five Americans will be 65 years or older.
13. Federal design guidelines emphasize that sighted pedestrians do not feel comfortable walking directly adjacent to building walls, doors or fences and prefer to keep at least two feet away from the edge of sidewalks opposite the street (known as the "frontage line"). As a result, most pedestrians travel more than two feet away from the frontage line, and the sidewalk adjacent to the frontage line does not provide its proportionate share of sidewalk through-put capacity for sighted pedestrians.
14. In contrast with sighted pedestrians, people with vision impairments often prefer to travel close to the frontage line to use sound or physical contact for orientation or guidance, traveling one to four feet from the frontage line.
15. Federal guidelines advise that the area along the frontage line should be free of fixed obstacles and protruding objects that can not be detected by cane and that fixed, stable and predictable sidewalk topography greatly benefits people with vision impairments.
16. Federal guidelines advise that people using a guide dog, crutches or a walker require four feet of width as they travel along a sidewalk.
17. Federal guidelines advise that wheelchair users require five feet to turn around and six feet to pass other wheelchairs.
18. Federal guidelines advise that sidewalk capacity is greatly reduced if pedestrians cannot pass each other, both oncoming and overtaking, and greatly enhanced if two pedestrians walking side-by-side can pass an oncoming pedestrian.
19. Federal guidelines advise that a sidewalk corridor six to ten feet wide should be specifically reserved for pedestrian travel in high traffic areas.
20. Poor management of dogs on the City's sidewalks creates inefficiency and unnecessary conflict between uses.

21. As an element of the PSMP, a pedestrian use zone dedicated to, and protected for, the use of pedestrians that allows other beneficial uses by permit, regulation or policy would serve compelling interests of the City in high pedestrian traffic areas.
22. For high pedestrian traffic area sidewalks that are more than ten feet (10') wide, a pedestrian use zone eight feet (8') wide extending from the frontage line and from frontage-side uses allowed by permit, regulation or policy would adequately serve the City's compelling need to protect pedestrian travel while providing room for other beneficial uses.
23. For high pedestrian traffic area sidewalks that are ten feet (10') wide or less, a pedestrian use zone six feet (6') wide extending from the frontage line and from frontage-side uses allowed by permit, regulation or policy would reasonably balance the City's compelling need to protect pedestrian travel with the need for other beneficial uses.
24. For sidewalk corners in high pedestrian traffic areas, a pedestrian use zone encompassing the entire surface between the extended frontage lines of the intersecting sidewalks would serve the City's compelling interest in protecting pedestrian travel while allowing other beneficial uses on other parts of the sidewalks and by permit.

NOW, THEREFORE, the Council directs:

- a. The findings made by Council in Ordinance No. 180953 when adopting Portland City Code Section 14A.50.030 remain valid and are adopted in support of this ordinance.
- b. Portland City Code Section 14A.50.030, Sidewalk Obstructions, is hereby repealed and replaced by new Section 14A.50.030, Sidewalk Use, as set out in Exhibit A.
- c. The sidewalks described in Finding #3 of Ordinance 180953 shall continue to be listed in new Portland City Code Subsection 14A.50.030 F. for enforcement of the prohibitions in Portland City Code Subsection 14A.50.030 B. – D.
- d. For high pedestrian traffic area sidewalks more than ten feet wide, the pedestrian use zone is generally defined as eight feet wide, and extending from the frontage line or from permitted or allowed frontage-side uses. This general definition is subject to exceptions set out in the City Code and the authority of the Director of the Bureau of Transportation to define dimensions at particular locations.
- e. For high pedestrian traffic area sidewalks ten feet wide or less, the pedestrian use zone is generally defined as six feet wide, and extending from the frontage line or from permitted or allowed frontage-side uses. This general definition is subject to exceptions set out in the City Code and the authority of the Director of the Bureau of Transportation to define dimensions at particular locations.

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- f. The Director of the Bureau of Transportation is authorized to define the dimensions of a pedestrian use zone at particular locations in response to public safety and traffic needs by placing marks on the sidewalk.
 - g. The Director of the Bureau of Transportation is authorized to post sidewalk use rules in high pedestrian traffic areas as well as a telephone number that citizens may use to report violations.
 - h. The Portland Police Bureau will conduct regular missions using plain-clothes and uniformed officers to identify criminal acts occurring on Portland sidewalks, including but not limited to drug dealing, littering, reckless endangering, assault, harassment, menacing, pedestrian interference and disorderly conduct.
 - i. The Sharing Public Sidewalks Advisory Committee shall monitor the implementation and enforcement of the new sidewalk use code for Council.

Section 2. The Council declares that an emergency exists in that the public would immediately benefit from clarification of the laws governing sidewalk use in high pedestrian traffic areas; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council:

Commissioner **Mayor Sam Adams**

Prepared by: David Woboril

Date Prepared: April 22, 2010

LaVonne Griffin-Valade

Auditor of the City of Portland

By

Deputy

1. Between 7:00 a.m. and 9:00 p.m., only pedestrians may use the pedestrian use zone in the high pedestrian traffic areas described in Subsection F.
 2. The prohibition in Subsection B1 does not apply to:
 - a. Persons who use a conveyance to move freight or merchandise.
 - b. Persons crossing the sidewalk pedestrian zone in a conveyance directly to or from an entrance.
- C. Improper Use Of Sidewalk In A High Pedestrian Traffic Area - Placing Objects In Pedestrian Use Zone:** Between 7:00 a.m. and 9:00 p.m., in the high pedestrian traffic areas described in Subsection F, unless authorized or allowed by ordinance, permit or a regulation issued by the Director of the Bureau of Transportation, no person may deposit, install, place, fix or leave any object or item in, on or above a pedestrian use zone except:
1. Personal baggage or luggage that is within arm's reach of the pedestrian possessor;
 2. Merchandise in course of receipt or delivery that presents a continuous vertical rise of at least 36 inches to the cane of vision-impaired pedestrians, unless that merchandise is permitted to remain upon the sidewalk for a period longer than 2 hours. The vehicle in which merchandise is delivered is subject to all parking regulations as described in Title 16.
- D. Improper Use Of Sidewalk In A High Pedestrian Traffic Area – Mismanaging A Dog:** Between 7:00 a.m. and 9:00 p.m., on all parts of sidewalks in the high pedestrian traffic areas described in Subsection F:
1. All dogs must be in hand or, if leashed, the dog's neck must be within two feet of the handler;
 2. A dog may be present in a pedestrian use zone in the high pedestrian traffic areas described in Subsection F only if under the control of a pedestrian;
 3. A person who brings a dog onto a public sidewalk or who possesses or controls the dog is responsible for compliance with this Subsection. This Subsection does not apply to police animals.
- E. Improper Use Of Sidewalk – Failing To Allow Use By A Disabled Person:** On all sidewalks at all times, at the reasonable request of a person using a mobility device or relying for guidance on a cane, helper or guide animal, all persons must immediately yield use of the sidewalk to allow a reasonable opportunity for passage.
- F. High Pedestrian Traffic Areas:**
1. The Downtown Area, defined as the public sidewalks in the area bounded by the west bank of the Willamette River, I-5 from the west bank of the Willamette River to its junction with I-405, I-405, the north edge of the north sidewalk of Northwest Irving Street and a line extended from the northeast corner of the north sidewalk of Northwest Irving Street to the west bank of the Willamette River;
 2. The Rose Quarter / Lloyd Area, defined as the public sidewalks in the area bounded by North Interstate Avenue, the north edge of the north sidewalk of Broadway Street, Northeast 16th Avenue and Northeast Lloyd Boulevard.

- G.** The prohibitions in this Section do not apply to a person:
1. Unable to comply due to suffering a medical emergency;
 2. Unable to comply due to physical or mental incapacitation;
 3. Acting as authorized or allowed by ordinance, permit or a regulation issued by the Director of the Bureau of Transportation.
 4. Performing a City-approved public safety, maintenance or construction function.
 5. Participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on the public sidewalk pursuant to and in compliance with a street use or other applicable permit;
 6. Assembled with others to participate in or observe an expressive event if the assembly has lasted less than eight hours unless the person refuses to comply with a lawful order of a peace officer to moderate the impact of the assembly on passage along the sidewalk;
 7. Sitting on a chair or bench located on the public sidewalk supplied or permitted by a public agency;
 8. Waiting in line for goods or services unless the person refuses to comply with a lawful order of a peace officer to form the line in a way that moderates impact on passage along the sidewalk;
 9. Performing street music while complying with the Street Musician Partnership Agreement;
- H.** No person shall be cited under this Section unless the person engages in conduct prohibited by this Section after having been notified in writing by an Oregon peace officer that the conduct violates this Section.
- I.** The prohibitions in this Section do not apply when they are waived by permit.
- J.** Nothing in any of the exceptions listed in Subsection G. shall be construed to permit any conduct which is prohibited by PCC 14A.50.035 - Pedestrians.
- K.** Nothing in this Section shall be construed to permit conduct which is prohibited by a lawful order restricting the time, place or manner of speech.
- L.** An object or deposit that is on or above a sidewalk in violation of this Section is hereby declared to be a public nuisance. The Director of the Bureau of Transportation or a police

officer may summarily abate any such nuisance, or it may be abated as set forth in Chapter 29.20.

- M.** Violation of this Section subjects a person to a maximum penalty of a \$250 fine only.
- N.** In lieu of the penalty provided for above, a judge may sentence a person found in violation of this Section to community service for such period as is provided for violations pursuant to ORS 137.126 to ORS 137.129.
- O.** This Section shall not apply to any activity otherwise made lawful.