

SUBSTITUTE
183754

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.

- 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 safety and traffic needs by placing marks on the sidewalk.
- g. Except when doing so would create a threat to life or safety, the Director of the Bureau of Transportation shall endeavor to adjust or re-align the pedestrian use zone defined in PCC 14A.50.030 when necessary so that every block face in the high pedestrian traffic areas will have an area that is available for non-pedestrian use and sufficient in size for three people to sit. When the Director establishes an adjusted or re-aligned pedestrian use zone that does not match the definition in PCC 14A.50.030(A), the Director shall clearly mark the boundaries of the irregular zone on the sidewalk. The Director shall maintain a map of adjusted or re-aligned pedestrian use zones. These maps shall be available to the public and shall be posted on the City's website.
- h. The Director of the Bureau of Transportation may expand the pedestrian use zone defined in PCC 14A.50.030 to encompass an entire sidewalk, but only in response to a heightened threat to the life or safety of non-pedestrian users. The Director must clearly mark such zones. The Director shall maintain a map of zones adjusted under this authority. These maps shall be available to the public and shall be posted on the City's website.
- i. 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.
- j. The Portland Police Bureau will conduct regular missions 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.
- k. For six months after enactment of Exhibit A, the Portland Police Bureau shall give oral warnings and an opportunity to comply to those who violate the new code prior to issuing a written warning. A written warning may be issued if the oral warning does not prompt compliance or if the person engages in a subsequent violation. The Portland Police Bureau shall track both oral and written warnings for review by Council.
- l. 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: MAY 06 2010

Commissioner **Mayor Sam Adams**

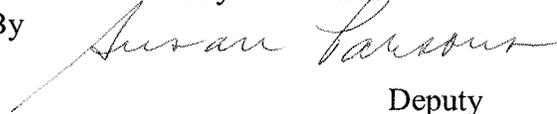
Prepared by: David Woboril

Date Prepared: April 22, 2010

LaVonne Griffin-Valade

Auditor of the City of Portland

By



Deputy

S-642

Agenda No. **ORDINANCE NO. 183754**

Title

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

INTRODUCED BY Commissioner/Auditor: Mayor Sam Adams	CLERK USE: DATE FILED <u>5-6-10</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Adams <i>[Signature]</i>	LaVonne Griffin-Valade Auditor of the City of Portland
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Leonard	By: <i>[Signature]</i> Deputy
BUREAU APPROVAL Bureau: City Attorney Bureau Head: Linda Meng <i>[Signature]</i>	ACTION TAKEN:
Prepared by: David Woboril Date Prepared: May 6, 2010	
Financial Impact Statement Completed <input type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input checked="" type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date May 6, 2010	
City Attorney Approval <i>[Signature]</i>	

AGENDA
TIME CERTAIN <input checked="" type="checkbox"/> Start time: 3:00 p.m.
Total amount of time needed: 1 hr. (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input checked="" type="checkbox"/> Total amount of time needed: 1 hr. (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Leonard	4. Leonard	—	
Adams	Adams	✓	