

ORDINANCE No. 185504 *As Amended*

Enact Item #11 of the Public Sidewalk Management Plan by creating a pilot program to test a way to better manage the concentration and placement of publication boxes located on public sidewalks. (Ordinance)

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) with the intention of balancing 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. Resolution No. 36743 also resolved that Mayor Sam Adams would propose a plan to better manage the concentration and placement of publication boxes located on public sidewalks, this is the first attempt to test a model that, if successful could be deployed through the central city.
3. The purpose of this Ordinance is to protect the safety of those using the public right-of-way, maintain and protect the values of surrounding properties, and ensure that the aesthetics and historical attributes of the City (including but not limited to adjacent businesses, residences and other uses) are not compromised by the unregulated placement of publication boxes in the public right-of-way.
5. The proper regulation of public sidewalks must provide for multiple beneficial uses, the safety of sidewalk users, the efficient movement of people and delivery of goods and services, as well as access to public spaces for full lawful use.
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, publication 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. All sidewalks in the downtown core are high pedestrian use areas, specifically though, the PSMP designated Pioneer Courthouse Square and the immediately abutting blocks as Pedestrian Use Zones.
8. Ordinance 162839 authorized the public sidewalks surrounding Pioneer Courthouse Square to be included as part of the park and subject to the rules of Portland Parks & Recreation.

9. Ordinance 182295 authorized the Management Agreement with Pioneer Courthouse Square Inc, giving that entity some level of management authority and responsibility for public safety in this public space, including area traditionally managed as public sidewalks.
10. Currently, the above listed beneficial uses of sidewalks come into unnecessary conflict due to lack of space and competing demands in high pedestrian traffic areas.
11. Since under federal and state law, local governments have primary responsibility for the management of public sidewalks.
12. 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.
13. The Council recognizes that the dissemination of publications and other written material is in the public interest, and that any governmental action with respect to such dissemination must be consistent with the protection accorded a free press by the First Amendment to the United States Constitution and Article I, section 8 of the Constitution of the State of Oregon.

NOW, THEREFORE, the Council directs:

- a. The Portland Bureau of Transportation (PBOT) to work with the Portland Business Alliance (PBA) on a pilot program to consolidate publication boxes into a number of co-located publication boxes in the area bounded by SW Yamhill, SW Broadway, SW Morrison and SW 6th Ave and a half-block in all directions. See Exhibit A for the designated pilot area.
- b. In the pilot area, no other free-standing publication boxes will be permitted.
- c. In the pilot area, all current free standing publication boxes will be notified in writing that their current free standing publication box is to be removed.
- d. Each publication, within the pilot area, will be accommodated into the co-located publication box.
- e. In some cases, within the pilot area, the newspaper publication presence may be reduced in number in order to manage the co-located publication boxes.
- f. PBOT is to issue PBA permits for the co-located publication boxes thereby making the PBA responsible for ensuring the cleanliness of the co-located publication boxes, as well as, overseeing the management of the participating publishers.
- g. PBOT and PBA will jointly monitor the successfulness of the program based on a number of criteria including but not limited to cost of coordination, cost of boxes, the ongoing use and cleanliness of the boxes. See Exhibit B for complete list of criteria to be used to assess the successfulness of the program.

- h. The pilot program will last for one year starting from the date of implementation of all the co-located publication boxes, with the possibility of having the pilot extended for an additional 6 months in order to gather more information.
- i. If during the pilot program, any publication desires to place a publication box within the pilot area, the publication will make their request in writing to the PBA.
- j. PBA will not deny any request from any publication for inclusion within the co-located publication boxes based on content or other constitutional distinctions.
- k. All requests for new publication accommodations within the initial co-located pilot area will be granted on a "first come" basis.
- l. If there is not space available within the initial co-located publication boxes for a new publication, then the PBA will develop a work plan to address locations for all publications within the pilot area and inform PBOT of this situation.
- m. Additional co-located publication boxes will be allowed within the pilot area if needed.
- n. PBA will bear the cost of all new co-located publication boxes. PBOT will reimburse PBA up to a maximum of \$20,600 for purchase of the co-located publication boxes from the Mall Enhanced Maintenance and Security trust account held in PBOT.
- o. The placement of a new co-located publication boxes is subject to approval by PBOT. New co-located publication boxes placed within the Pioneer Courthouse Square block is subject to approval of both PBOT and Pioneer Courthouse Square Inc.
- p. PBA will notify the adjacent property owner(s) and address any concerns regarding the proposed location(s) of the co-located publication box.
- q. No third party speech will be allowed on the exterior of any of the co-located publication boxes. However, for each co-located publication box, the publication to whom that box is assigned may display information of its choice, limited to one display of information of now more than 4 inches in height, on each of the following spaces: the front, side and door of the co-located publication box.
- r. If any free standing publication boxes are placed within the pilot area and during the pilot timelines, PBA will notify PBOT. PBOT will notify the publication of the requirement of this Ordinance.
- s. When the test period has expired; the PBA, as the permit holder, will report back to PBOT. Together PBOT and PBA will determine the successfulness of the program and decide whether the pilot program should be made permanent.
- t. This pilot program will provide data to PBOT to inform PBOT in any future effort of co-located publication boxes in other parts of the City.

185504

Passed by the Council,

JUL 18 2012

Mayor Sam Adams

Prepared by: Rich Eisenhauer:slg

Date Prepared: June 29, 2012

LAVONNE GRIFFIN-VALADE

AUDITOR OF THE CITY OF PORTLAND

By


Deputy

185504

Agenda No.
ORDINANCE NO. 185504 As Amended
Title

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<p>INTRODUCED BY Commissioner/Auditor: MAYOR SAM ADAMS</p> <p>COMMISSIONER APPROVAL <i>[Signature]</i></p> <p>Mayor—Finance and Administration - Adams</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Leonard</p> <p>BUREAU APPROVAL Bureau: Bureau of Transportation Group Manager: Greg Jones Development & Capital Program Other: <i>[Signature]</i></p> <p>Prepared by: Rich Eisenhauer: slg Date Prepared: June 29, 2012 <i>[Signature]</i></p> <p>Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Council Meeting Date July 11, 2012</p> <p>City Attorney Approval</p>	<p>CLERK USE: DATE FILED <u>JUL 06 2012</u></p> <p><i>on behalf of Mayor Adams</i> LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p>ACTION TAKEN: JUL 11 2012 PASSED TO SECOND READING As Amended JUL 18 2012 9:30 A.M.</p>
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AGENDA

TIME CERTAIN ☐
Start time: _____

Total amount of time needed: _____
(for presentation, testimony and discussion)

CONSENT ☒ *Pulled*

REGULAR ☐
Total amount of time needed: _____
(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	✓	