

Sidewalk management clears sit-lie hurdles of years past

BY JOANNE ZUHL
STAFF WRITER

Seven months into the enforcement of Portland's Sidewalk Management Ordinance, there are no lawsuits festering in the wings, no major protests at City Hall, and little in terms of social discourse under the banner of civil rights violations. The absence is notable considering that this plan, which regulates sitting and lying on public sidewalks, was born of nearly a decade of sit-lie regulations drawing all of the above.

Unlike similar city efforts in the past, which essentially prohibited sitting or lying on sidewalks downtown wholesale, the complete sidewalk management plan includes an agenda of actions to alleviate sidewalk problems. It includes a regular, open forum called the Public Sidewalk Management Advisory Committee, with business representatives, community advocates, representatives of city commissioners, police, and anyone interested in attending. As both a watchdog and sounding board for the ordinance, the advisory committee meets monthly to discuss sidewalk management and the ordinance's performance, under the oversight of Commissioner Amanda Fritz.

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So far, she says, it seems to be working. "I'm getting far fewer angry messages from all sides," Fritz says. Fritz says she still gets some messages from tourists who complain about panhandlers, and the local community understands the challenges and is "moving in the right direction," but that they will always have to contend with more challenges and limited resources.

Passed in May, the ordinance prohibits anyone from sitting, lying, or keeping possessions beyond his or her immediate reach in the "pedestrian use zone" of downtown and Rose Quarter/Lloyd district sidewalks between 7 a.m. and 9 p.m.

The pedestrian zone extends from the building frontage out eight feet for sidewalks 10 feet wide or more. For sidewalks less than 10 feet wide, the zone is six feet. The ordinance leaves the two feet next to the curb open to non-pedestrian activities.

The ordinance also requires that people keep their dog leashed and its neck within two feet of the owner. There are exceptions to the prohibitions, including people waiting for services, street musicians, and people who for medical reasons are unable to comply with the ordinance.

Violators receive written warnings prior to being cited. Citations call people into court with the options of entering a community court program, community service, or paying a fine up to \$250. Or people may challenge the citation.

Since enforcement began in mid-June, through to Dec. 31, police have issued 118 verbal warnings, 23 written warnings, and 13 citations. Of the people approached by police, 109 said they were homeless or living in a shelter. Twenty-seven gave an address of residence.

The Portland Business Alliance has been a

driving force in all variations of sidewalk management downtown, including the two versions that were declared unconstitutional. This ordinance, according to Megan Doern, PBA spokeswoman, seems to be working.

"Everyone felt that the time in between the two (ordinances) was really difficult, and now that we do have the Sidewalk Management Ordinance, it has helped retailers and property owners manage their store front a lot better," Doern said. "There's a lot of demand on our sidewalks and this ordinance has struck a balance on all of those."

Of course, not everyone is convinced the ordinance is a good thing. Regular concerns finding include relief from the weather, private security interaction and clarity on where the high pedestrian zones really are. The city has yet to put down markers in contested areas as promised when the ordinance was passed. The city's Human Rights Commission has come out against it, calling it a human rights violation, one that violates the right of people to be "free from discrimination and the right to rest and leisure." The vast majority of people warned and cited under the ordinance are homeless.

Brett, who was sitting downtown near Pioneer Courthouse Square, said he has been approached by police about the ordinance.

"They want us to sleep right there on the curb, which means we're breathing in all the carbon monoxide....They put us right on the curb, which isn't healthy. I know we're on the streets and stuff, but it's still not healthy."

A woman who goes by "Big Mamma" said she's been approached and told to move, and that police are usually concerned with her belongings she keeps around her. She can typically be seen sitting with her cart, knitting, reading or waiting on friends. Big Mamma said that police have told her that it is against the law, and she tells them that she is not harming anyone. She believes that if she isn't harming anyone, there should be nothing illegal about her taking the space.

"We try to go into places that we are not going to hassle anybody. We just want to lay down and go to sleep. ... We don't damage your property, so what is the problem with laying down?"

Tricia Knoll, a representative from the Human Rights Commission on the Fritz's advisory committee, says that people should be able to get away from the curb in inclement weather, and that disabilities are not always apparent to trigger the exemptions under the law.

"Not all disabilities are visible," Knoll says. "Sleep deprivation, malnutrition, depression mental health issues are not charted out (in the ordinance). They can't see that you are a disabled person."

The ordinance is enforced by bike and mounted patrol units of the Portland Police, however, security officers are permitted to inform people if they are in violation. The mounted police element has become a point of concern, given the intimidation factor of the horses. Portland Copwatch's Dan Handelman said the law also opens the potential for pretext stops.

"Every month that they give out statistics,

there are unrelated arrests," Handelman said. "This has become a pretext tool to get people for other criminal activity, which is not a stated goal. It's not the right solution for the problem they're trying to fix."

Police reported 12 unrelated arrests and 7 unrelated citations in their interactions under the ordinance since it went into effect in June.

The ordinance was based on the safe clearance requirements of the American's with Disability Act, however participants at the advisory committee who live with disabilities have indicated the larger problem isn't people, but bad curb cuts, newspaper boxes, and other physical structures placed on sidewalks by businesses.

Fritz said that physical structures fall under the Portland Department of

which is slated to open in June, increased enforcement of criminal activity downtown, the development of a downtown retail strategy, support for referral resources, and increasing the number of public restrooms embodied by fast-tracking the siting of Randy Leonard's Portland Loos.

"I do think we are making reasonable progress on the 12 point plan," Leonard said, adding that he has not heard any new complaints from the business community since the council adopted the ordinance.

"I am not sure how objectively the ordinance has worked," Leonard said. "However, I do think that people are trying more to not obstruct the flow of sidewalk traffic."

The plan includes a partnership between the city and the Portland Business Alliance to create a donation program in retail stores to fund outreach efforts through New Avenues for Youth to connect with young

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CITY COMMISSIONER AMANDA FRITZ

Transportation, where enforcement is "grossly underfunded." Fritz is calling on citizens who are concerned about the issue to call it into the city and report problems.

Chani Giegler-Teller, community organizer with Sisters of the Road, which advocates on behalf of people experiencing homelessness, says her organization is concerned that people are getting moved out of the downtown area who are not included in the figures.

"We appreciate the process that the city is going through to keep this accountable, but in our experience at what we're seeing still, on a daily basis, is there is a lot of enforcement that is not being documented," said Giegler-Teller. "So we still feel like it's a law that is being unfairly used to target people experiencing homelessness. It's still, in our opinion, a move-along law."

Giegler-Teller said Sisters hears from its customers reports of being asked a host of questions by police, and that's not being documented.

"Whether it's a friendly warning or harassment depends on whether you're sitting on top of a horse or sitting on a street corner," Giegler-Teller said.

That the preponderance of interaction on the ordinance is with homeless people is not lost on Fritz. But, she said, that is why instructions have been given to Clean & Safe, the downtown security and cleaning detail of the Portland Business Alliance, to give people in violation an alternative.

"They're saying please move over here, rather than please go away," Fritz said. "It gives everybody an alternative."

The ordinance is actually one element of the larger sidewalk management plan that calls for 12 action items, with concessions for both advocates for the homeless and the business community. They include the completion of the Resource Access Center,

homeless individuals. By last fall, the campaign had \$25,000 in pledges from the city, the PBA, American Express and Travel Portland, among others.

"There is still work to do," says Veronica Rinard, community relations director with Travel Portland, which was in discussions with the city while the ordinance was being crafted. "We still have people out there who need help, and we still have instances where visitors feel uncomfortable. I think we're interested in continuing conversations with the city on what is possible and what the possible solutions might be."

In 2002, the city's Obstructions as Nuisances ordinance banned people from sitting or lying on a public sidewalk. Multiple protests occurred at City Hall in the year that followed, including a 24-hour camp outside the building, which resulted in a lawsuit.

In 2004, the city's sit-lie ordinance was declared unconstitutional in Circuit Court, with the judge ruling that the law was unconstitutionally broad and vague. From June of 2004 until December of 2005 no ordinance was enforced. In December of that year, a new pilot sit-lie ordinance was put in place, which also later struck down for being unconstitutional.

Fritz said the advisory panel was intentionally set up not as an oversight committee, which existed under the previous ordinance, and which Fritz said diverted responsibility away from the elected council.

"I'm very clear that the oversight responsibility to this is the City Council," Fritz said. "We don't charge (the committee) with coming to consensus. We don't ask them to make deals. It's more, here's the issue, who has suggestions on what we should do about it."

Kaisa McCrow contributed to this article

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