

Ordinance No. _____

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, UPDATING THE
NAME OF TITLE 9 OF THE OLYMPIA MUNICIPAL CODE AND AMENDING OMC
9.16.180 RELATING TO PEDESTRIAN INTERFERENCE**

WHEREAS, the name of Olympia Municipal Code (OMC) Title 9 is Public Peace, Morals and Welfare; and

WHEREAS, OMC Title 9 contains various chapters relating to crimes and offenses against persons, public peace, drugs, gambling, offenses against property, juveniles, weapons and fireworks, to name but a few; and

WHEREAS, the name of OMC Title 9 should rightfully be updated to reflect its purpose within Olympia's Municipal Code; and

WHEREAS, OMC Title 9 should now and hereafter be known as the Criminal Code of the City of Olympia; and

WHEREAS, the Olympia Municipal Court found the definition of Obstruct pedestrian or vehicular traffic under OMC 9.16.180(2)(c) to be unconstitutional as a violation of due process because it lacked a culpable mental state or mens rea; and

WHEREAS, the crime of Pedestrian Interference shall require that the crime be knowingly committed;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC Title 9. Title 9 of the Olympia Municipal Code is hereby amended to read as follows:

Title 9
~~PUBLIC PEACE, MORALS AND WELFARE~~
CRIMINAL CODE

Chapters:

- 9.04 Aiding or Abetting Crime**
- 9.08 Offenses Against Government**
- 9.12 Contempt**
- 9.16 Offenses Against Public Peace**
- 9.20 Crimes Against Persons**
- 9.22 Interference with Reporting of an Emergency**
- 9.24 Offenses Against Public Decency**
- 9.28 Drugs**
- 9.32 Gambling**
- 9.36 Liquor Offenses**
- 9.40 Offenses Against Property**
- 9.44 Offenses By or Against Juveniles**
- 9.48 Weapons and Fireworks**
- 9.52 Miscellaneous Offenses**

- 9.62 Domestic Violence and Protection Orders**
- 9.64 Penalty for Violation**
- 9.68 Interference with Health Care Facilities or Providers**
- 9.70 Exclusion Orders**

Section 2. Amendment of OMC 9.16.180. Section 9.16.180 of the Olympia Municipal Code is hereby amended to read as follows:

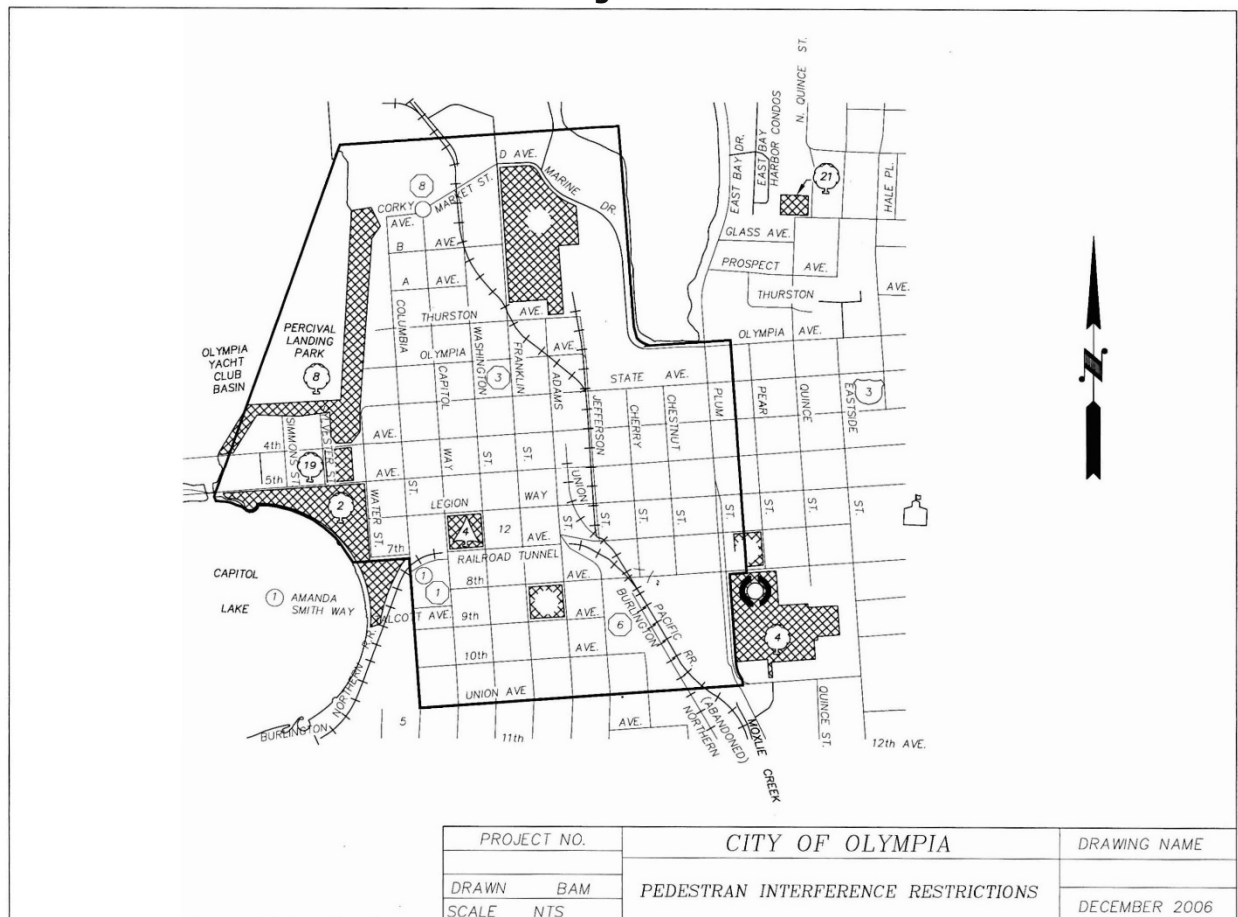
9.16.180 Pedestrian interference

A. A person is guilty of pedestrian interference if, in a public place, the person knowingly obstructs pedestrian or vehicular traffic.

B. The following definitions apply in this section:

1. "Downtown Commercial Zone" means the area depicted in Figure 1, attached hereto and incorporated herein, showing the areas within the City of Olympia in which conduct is prohibited under subsections ~~B.2.b and B.2.c~~ (B)(2)(b) (B)(2)(c) of this section.

Figure 1



2. "Obstruct pedestrian or vehicular traffic" means to:

- a. In a public place, ~~knowingly~~ walk, stand, sit, lie, grasp a person, or place an object in such a manner as to obstruct or impede, or tending to obstruct or impede, the free passage of any person or vehicle, or to require another person or a driver of a vehicle to take action to avoid physical contact; or
 - b. at any time ~~knowingly~~ vend on any sidewalk, street or alley within the Downtown Commercial Zone as depicted in Figure 1 of this section; or
 - c. between the hours of 7 a.m. and 12 a.m., sit or lie on any sidewalk, street or alley within the Downtown Commercial Zone as depicted in Figure 1 of this section. ~~A culpable mental state is not required, and need not be proven, for an offense as defined under this subsection.~~ No person shall be cited under this subsection unless the person engages in conduct prohibited by this subsection after having been notified by a law enforcement officer that the conduct violates this subsection.
3. Affirmative Defenses. It is an affirmative defense under subsections ~~B.2.b and B.2.c~~ (B)(2)(b) and (B)(2)(c) of this section, that the defendant must prove by a preponderance of the evidence, that the defendant was:
- (i) Sitting or lying down on a publicly-owned sidewalk or alley due to a medical emergency;
 - (ii) Utilizing, as the result of a disability, a wheelchair, walker, or similar device to move about on the publicly-owned sidewalk or alley;
 - (iii) Operating or patronizing a commercial establishment conducted on any sidewalk, street or alley pursuant to a street use permit;
 - (iv) Vending, sitting or lying down on any sidewalk, street or alley within any portion of the Downtown Commercial Zone where such conduct is approved by the City as part of participation in or attendance at a parade, festival, rally, or demonstration; provided, however, that this defense shall not be available to a defendant refusing to obey a reasonable request or order by a police officer to move to prevent obstruction of a public street, alley, sidewalk or building or entrance or doorway into or out of a building open to the public, or to maintain public safety by dispersing those gathered in dangerous proximity to a fire or hazard;
 - (v) Sitting on a chair or bench supplied by a public agency or by the abutting private property owner or lessee for that purpose, pursuant to a temporary street use or other applicable permit or authorization if required;
 - (vi) Sitting or standing on a publicly-owned sidewalk within a bus stop zone while waiting for public or private transportation; or
 - (vii) Waiting in a line to purchase tickets to or attend a performance or public event, or to gain entry to a business adjacent to the publicly-owned sidewalk or alley; or

Provided, however, that nothing in any of these affirmative defenses shall be construed to permit any conduct which is prohibited by OMC 9.16.180(B)(2)(a).

4. "Public place" means an area generally visible to public view and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks, and streets open to the general public including places that serve food or drink or provide entertainment, in the doorways and entrances to buildings or dwellings and the grounds enclosing them.

5. "Sit or Lie" means to sit or lie directly upon a sidewalk, street, or alley, or to sit or lie down upon any blanket, sleeping bag, bedroll, tarpaulin, cardboard, or any other similar object placed upon the sidewalk, street or alley.

6. "Vend" means to offer for sale, whether orally or through the use of written or printed media, any item of value to another person.

Section 3. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 5. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 6. Effective Date. This Ordinance shall take effect five (5) days after passage and publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Mark Barber
CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: