

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON AMENDING BELLINGHAM MUNICIPAL CODE PROVISIONS 10.24.070, 11.48.140, 11.52.010, EXTENDING THE HOURS OF RESTRICTION FOR SITTING AND LYING ON SIDEWALKS IN THE DOWNTOWN PEDESTRIAN SAFETY AREA AND THE FAIRHAVEN PEDESTRIAN SAFETY AREA, AND ENLARGING THE AREA OF RESTRICTION FOR SITTING AND LYING ON SIDEWALKS, RIDING A BICYCLE ON THE SIDEWALK, AND USING SKATEBOARDS

WHEREAS, Downtown Bellingham and the Fairhaven commercial core are places where people come to play, work, shop, and live;

WHEREAS, these areas are vibrant and important community gathering places with increasing pedestrian and vehicular traffic;

WHEREAS, the types of businesses concentrated in downtown Bellingham and the Fairhaven commercial core, including a variety of restaurants, clothing stores, and specialty shops, combined with the pedestrian-oriented design of the areas, tend to draw significant pedestrian traffic;

WHEREAS, the City is committed to making the pedestrian environment safe, accessible to everyone, free of obstruction, and friendly for people of all ages, income levels, disabilities, and cultures;

WHEREAS, Downtown and Fairhaven sidewalks are intended to provide not only shared public passage, but also pedestrian amenities such as street trees, benches, landscaping, trash receptacles, and public art;

WHEREAS, large numbers of people use the sidewalks and public rights of way, often in groups, to move throughout Downtown and Fairhaven and to frequent businesses in these areas, especially between the hours of 7:00 a.m. and 12:00 a.m.

WHEREAS, the presence of people sitting or lying on the public sidewalk in these busy areas inhibits the space available for public passage and amenities, inhibits the open and free movement of pedestrians, creates delay in pedestrian movement, creates a tripping hazard for pedestrians, distracts pedestrians from the need to be alert to tripping hazards, presents a hazard to pedestrians who may have to step into the roadway to bypass individuals that are sitting or lying on the sidewalk, creates situations in which conflict and hostility between pedestrians and those sitting or lying on the sidewalks may arise, and creates conditions in which employees, customers, and visitors may find the area to be unsafe;

WHEREAS, BMC 10.24.070 currently prohibits persons from sitting or lying upon a public sidewalk, in the Central Business District and the Fairhaven Business District during the hours between 7:00 a.m. and 9:00 p.m.;

WHEREAS, BMC 10.24.070 does not prohibit sitting or lying down on a sidewalk for a medical emergency, due to disability, for parades and similar events, when sitting on a bench

provided by a public agency or abutting property owner, or when sitting within a bus stop zone while waiting for transportation;

WHEREAS, BMC 10.24.070 requires a law enforcement officer to issue a warning prior to issuing a civil infraction, and officers find the warning to be an useful and effective way to gain compliance with the majority of those engaged in sitting or lying on the sidewalk;

WHEREAS, benches located within the Downtown streetscape, including 21 benches currently installed and 6 more that will be installed, provide appropriate places for public seating;

WHEREAS, a March 2012 Community Engagement Report that focused on downtown Bellingham identified loitering on corners and sidewalks as a primary concern among downtown business owners, managers, and property owners and identified a goal of improving the pedestrian experience;

WHEREAS, the March 10, 2014 Report of Recommendations by the Community Solutions Workgroup, which focused on Downtown health and safety, identified as a priority the need to adjust municipal codes to allow effective intervention and enforcement of the most common infractions, including extending the restricted hours for sitting and lying on the sidewalk;

WHEREAS, of the complaints that law enforcement officers receive in Downtown and the Fairhaven commercial core, sitting and lying on sidewalks ranks consistently as one of the most frequent concerns expressed by business owners and patrons.

WHEREAS, riding bicycles on a sidewalk and the use of skateboards along streets, alleys and sidewalks in these areas also creates an unsafe environment for pedestrians and others;

WHEREAS, BMC 11.48.140 currently prohibits riding a bicycle on a sidewalk in Bellingham's Central Business District;

WHEREAS, BMC 11.52.010 currently prohibits use of a skateboard along public streets, alleys, sidewalks, parking lots, and other public places in Bellingham's business districts; and

WHEREAS, the Bellingham Police Department has found BMC 10.24.070, BMC 11.48.140, and BMC 11.52.010 to be useful tools in addressing the problems specified above related to sitting and lying on sidewalks, riding bicycles on sidewalks, and using skateboards, in the areas designated by the ordinance, but that increased pedestrian traffic in additional areas of the City and during the hours between 9:00 p.m. and 12:00 a.m. warrants amendments to the code.

NOW, THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1: BMC 10.24.070 is hereby amended as follows:

10.24.070 Sitting or lying on public sidewalks prohibited.

A. Prohibition. No person shall sit or lie down upon a public sidewalk, alley, roadway or driveway, including areas immediately abutting buildings, or upon a blanket, chair, stool, bollard, planter, fountain, railing or any other object placed upon a public sidewalk, alley, roadway or driveway, during the hours between 7:00 a.m. and ~~9:00 p.m~~ 12:00 a.m. in the following zones:

1. Downtown Pedestrian Safety Area: ~~District Central Business District (“CBD”)~~. The downtown pedestrian safety area ~~district central business district~~, for the purposes of this section, is the area described as follows:

BEGINNING AT THE WESTERLY MOST CORNER OF LOT 8, BLOCK 77, TOWN OF NEW WHATCOM; THENCE NORTHEASTERLY ALONG THE SOUTHEASTERLY MARGIN OF N FOREST ST RIGHT OF WAY TO THE SOUTHWESTERLY MOST CORNER OF TRACT A, YORK ADDITION TO NEW WHATCOM SUPPLEMENTAL;

THENCE NORTHERLY ALONG WEST EDGE OF SAID TRACT A, TO THE CENTERLINE OF WHATCOM CREEK;

THENCE WESTERLY ALONG SAID CENTERLINE OF WHATCOM CREEK APPROXIMATELY 5,121 FEET TO THE SOUTHWEST EDGE OF THE ROEDER AVENUE BRIDGE;

THENCE SOUTHEASTERLY ALONG THE SOUTHWEST EDGE OF ROEDER AVENUE BRIDGE, WHICH BECOMES W CHESTNUT STREET, AND ALONG THE SOUTHERN MOST EDGE OF W CHESTNUT ST (BRIDGE) TO THE INTERSECTION WITH THE DOWNTOWN DISTRICT BOUNDARY;

THENCE FOLLOWING THE BOUNDARY OF THE DOWNTOWN DISTRICT GENERALLY SOUTH, SOUTHWEST, SOUTHEAST AND NORTHEAST TO THE INTERSECTION OF IVY STREET AND N FOREST STREET;

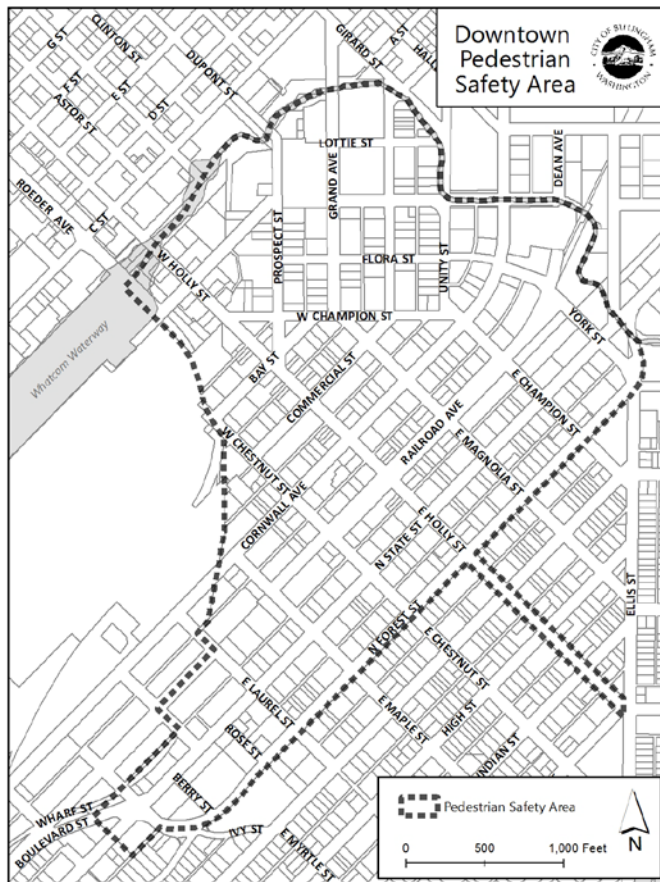
THENCE ALONG THE SOUTHEASTERLY MARGIN OF N FOREST STREET RIGHT OF WAY TO NORTHWESTERLY MOST CORNER OF LOT 1, BLOCK 78, TOWN OF NEW WHATCOM;

THENCE SOUTHEASTERLY ALONG THE SOUTHERN MARGIN OF E HOLLY STREET RIGHT OF WAY TO THE WEST EDGE OF ELLIS ST RIGHT OF WAY,

THEN NORTH FOLLOWING THE WEST EDGE OF ELLIS ST TO THE NORTH EDGE OF E HOLLY ST;

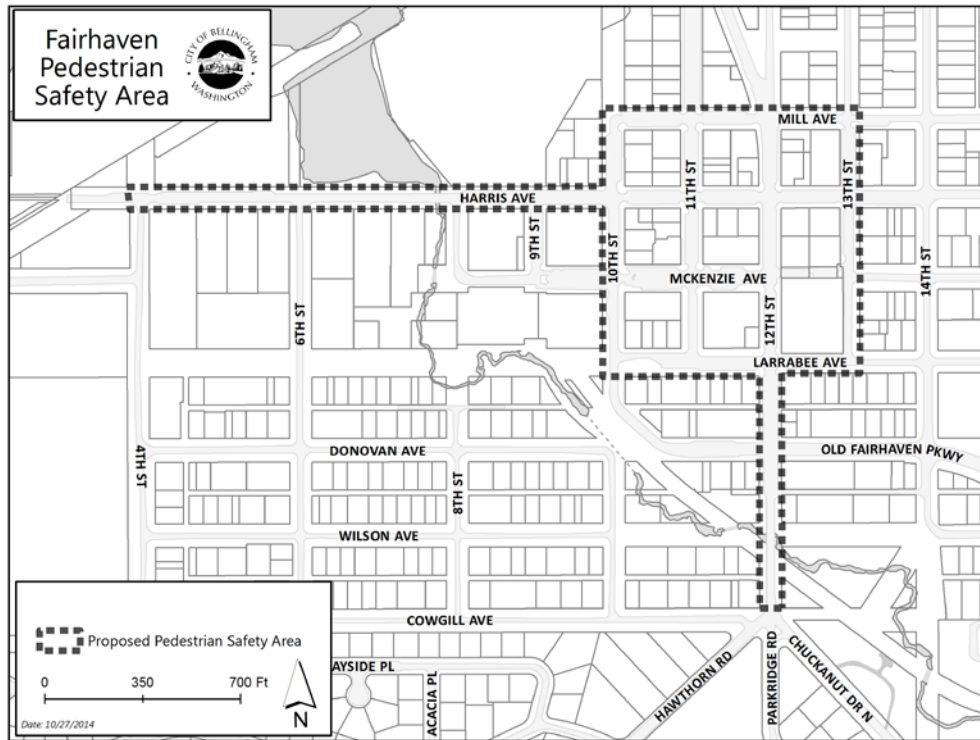
THENCE NORTHWESTERLY ALONG THE NORTHERN MARGIN OF E HOLLY STREET RIGHT OF WAY TO THE POINT OF BEGINNING.

~~bounded by the streets hereafter named, including said streets and their abutting sidewalks: on the east bounded by State Street from Whatcom Creek to Maple Street, on the south Maple Street from State Street to Cornwall Street to the intersection of Chestnut and Bay Street, on the west from the intersection of Chestnut and Bay Street to Champion Street, on the southwest from Champion Street to the intersection of Cornwall and York Street, on the north from the intersection of Cornwall and York Street to Railroad and up to Whatcom Creek between Railroad and State Street.~~ The following map of the downtown pedestrian safety area is provided for illustrative purposes only:



2. The Fairhaven ~~Business District~~ Pedestrian Safety Area (“FBD”). The Fairhaven ~~business district~~ pedestrian safety area, for the purposes of this section, is the area described as follows: BEGINNING AT THE NORTHEAST MOST CORNER OF LOT 1, BLOCK 45, PLAT OF FAIRHAVEN AMENDED; THENCE EAST FOLLOWING SOUTHERLY LINE OF HARRIS AVE RIGHT OF WAY TO ITS INTERSECTION WITH THE WESTERLY LINE OF THE 10TH ST RIGHT OF WAY; THENCE SOUTH FOLLOWING SAID WESTERLY LINE TO ITS INTERSECTION WITH THE SOUTHERLY LINE OF THE LARRABEE AVE RIGHT OF WAY; THENCE EAST FOLLOWING SAID SOUTHERLY LINE TO ITS INTERSECTION WITH THE WESTERLY LINE OF THE 12TH ST RIGHT OF WAY; THENCE SOUTH FOLLOWING SAID WESTERLY LINE TO ITS INTERSECTION WITH THE NORTHERLY LINE OF THE COWGILL AVE RIGHT OF WAY; THENCE EAST FOLLOWING SAID NORTHERLY LINE TO THE EASTERLY LINE OF THE 12TH ST RIGHT OF WAY; THENCE NORTH FOLLOWING SAID EASTERLY LINE TO ITS INTERSECTION WITH THE SOUTHERLY LINE OF THE LARRABEE AVE RIGHT OF WAY; THENCE EAST FOLLOWING SAID SOUTHERLY LINE TO THE EASTERLY LINE OF THE 13TH ST RIGHT OF WAY; THENCE NORTH FOLLOWING SAID EASTERLY LINE TO ITS INTERSECTION WITH THE NORTHERLY LINE OF THE MILL AVE RIGHT OF WAY; THENCE WEST FOLLOWING SAID NORTHERLY LINE TO ITS INTERSECTION WITH THE WESTERLY LINE OF THE 10TH ST RIGHT OF WAY; THENCE SOUTH FOLLOWING SAID WESTERLY LINE TO ITS INTERSECTION WITH THE NORTHERLY LINE OF THE HARRIS AVE RIGHT OF WAY; THENCE WEST FOLLOWING SAID NORTHERLY LINE TO ITS INTERSECTION WITH THE WESTERLY LINE OF THE 4TH ST RIGHT OF WAY; THENCE SOUTH FOLLOWING SAID WESTERLY LINE TO THE POINT OF BEGINNING.

~~shall be defined by the area bounded by the streets hereafter named, including said streets and their abutting sidewalks: the area bounded by Mill Avenue on the north from 10th Street to 13th Street to Larrabee Avenue on the east, Larrabee Avenue on the south from 13th Street to 10th Street from Larrabee to Mill Avenue on the west. In addition the prohibited area in the Fairhaven business district shall include 12th Street from Larrabee to Cowgill and Harris Avenue from 10th Street to 4th Street.~~ The following map of the Fairhaven pedestrian safety area is provided for illustrative purposes only:



B. Exceptions. The prohibitions in subsection (A) of this section shall not apply to any person:

1. Sitting or lying down on a sidewalk due to a medical emergency.
2. Who, as the result of a disability, utilizes a wheelchair, walker, or similar device to move about the public sidewalk.
3. Operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a street use permit; or a person participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on the public sidewalk pursuant to a street use or other applicable permit;
4. Sitting on a chair or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner;
5. Sitting on a public sidewalk within a bus stop zone while waiting for public or private transportation.

Nothing in any of these exceptions shall be construed to permit any conduct which is prohibited by BMC 10.24.010 (Disorderly conduct) or BMC 10.24.040 (Pedestrian interference).

C. No person shall be cited under this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this section.

D. A violation of this section shall be a civil infraction and shall subject the violator to a fine of up to \$250.00, plus statutory assessment. If the person is unable to pay the monetary penalty, the court may order performance of a number of hours of community service in lieu of a monetary penalty. The default amount shall be \$100.00.

E. Notwithstanding and in lieu of the penalties provided under subsection (D) of this section, a person violating this section shall, upon conviction for a third or subsequent offense, be guilty of having committed a criminal misdemeanor and shall be punished by a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or by both such fine and imprisonment.

F. In addition to or in lieu of the penalties set forth in subsection (E) of this section, when sentencing or imposing conditions on a person convicted of, or receiving a deferred sentence, deferred prosecution or statutory or nonstatutory diversion agreement for a misdemeanor based on conviction for a third or subsequent offense, the court has the authority to require the offender to (1) be evaluated and comply with treatment for alcohol, drug or mental health problems, (2) contact and participate in housing, food, vocational counseling and training and other social services, (3) perform community service and (4) not subsequently commit a violation of BMC 10.04.090

Section 2: BMC 11.48.140 is hereby amended as follows:

11.48.140 Bicycles – Riding on sidewalks ~~(WAC 308-330-555).~~

A. No person shall ride a bicycle upon a sidewalk in the downtown pedestrian safety area or in the Fairhaven pedestrian safety area as defined in BMC 10.24.070a ~~business district~~. This provision shall not apply to law enforcement officers engaged in the performance of their duties.

B. A person may ride a bicycle on any other sidewalk or any roadway unless restricted or prohibited by traffic-control devices.

C. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian.

Section 3: BMC 11.52.010 is hereby amended as follows:

11.52.010 Use of skateboards in the central business district, the Fairhaven business district, and in the city block surrounding the library.

It is unlawful for any person to use, operate, play with or propel a skateboard upon, over or along the public streets, alleys, sidewalks, parking lots or other public places in the ~~central business district~~ downtown pedestrian safety area as defined in BMC 10.24.070(A)(1), in the ~~Fairhaven Fairhaven pedestrian safety area as defined in BMC 10.24.070(A)(2) business district~~, and in the city block surrounding the Bellingham Public Library as defined in BMC 11.52.030.

Section 4: BMC 11.52.020 is hereby repealed.

~~11.52.020 Map of the Central Business District~~

~~The central business district, for purposes of this chapter, shall be defined as the area depicted on the map following this chapter and as described as follows: on the east bounded by State Street from Whatcom Creek to Maple Street, on the south Maple Street from State Street to Cornwall Street to the intersection of Chestnut and Bay Street, on the west from the intersection of Chestnut and Bay Street to Champion Street, on the southwest from Champion Street to the intersection of Cornwall and York Street, on the north from the intersection of Cornwall and York Street to Railroad and up to Whatcom Creek between Railroad and State Street.~~

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Section 5: BMC 11.52.025 is hereby repealed.

~~11.52.025 Map of the Fairhaven Business District~~

~~The Fairhaven business district, for purposes of this chapter, shall be defined as the area depicted upon the map following this chapter, and as described as follows: that area bounded by Mill Avenue on the north from 10th Street to 13th Street to Larrabee Avenue on the east, Larrabee Avenue on the south from 13th Street to 10th~~

~~Street and 10th Street from Larrabee to Mill Avenue on the west. In addition the prohibited area in the Fairhaven district includes 12th Street from Larrabee Avenue to Cowgill and sidewalks on both sides of the street for that distance, and Harris Avenue from 10th Street to 4th Street, including sidewalks.~~

[Delete Map]

PASSED by the Council this _ day of _____, 2014.

Council President

APPROVED by me this _ day of _____, 2014

Mayor

ATTEST: _____

Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

Published:
