

HB 2963

**Providing the opportunity for a
community discussion about creative
solutions to the management of
sidewalks conflicts**

Good morning, I am Lynnae Berg, The Executive Director of Downtown Clean & Safe and the Vice President of Downtown Services for The Portland Business Alliance. I am also a retired police officer who spent 28 years serving the Portland Community. I am testifying in support of HB 2963 which will provide the opportunity for a community discussion about creative solutions to the management of sidewalk conflicts.

Resolving Conflicting Use of Sidewalks



Our goal with HB 2963 is to provide cities with additional tools in resolving conflicting use of public sidewalks by clarifying that it was not the intention of the legislature to preempt local jurisdictions from employing those tools when it enacted the disorderly conduct statute.

Better tools needed



Because some courts have inferred that the legislature intended to preempt cities from employing local violations to manage sidewalks, we are left with sidewalk management tools that are so constrained in their application that they are essentially ineffective in resolving conflicting uses.

Current ordinance ineffective



Under the current ordinance, these uses of the sidewalk are allowed because the city's ability to manage the use of the sidewalk extends only to the travel area between the building and the so-called furnishing zone. While the travel area can be kept clear, the furnishing zone has become a virtual free-for-all where people, belongings and pets can obstruct both travel and commerce and create sanitary impacts and degrade neighborhood quality.

No tools to address these issues



Disabled drivers – and all drivers for that matter – face the prospect of “running the gauntlet” to get to and from their cars. As we saw in the first slide, big groups and big dogs are just part of the issue.

The Oregonian

Guide dogs for blind people attacked in Portland

Tuesday, February 16, 2010

By [Lynne Terry, The Oregonian](#)The Oregonian

During his training as a guide dog, Ellery, a black Lab, was attacked this month in downtown Portland by another dog, apparently owned by a homeless youth. Guide dog trainers have run into an increasing number of aggressive street dogs in recent months. Crystal Lange was training a guide dog near [Pioneer Courthouse Square](#) in downtown Portland when her black Lab was attacked by a street dog.

The dogs that often accompany these groups create other kinds of problems as well, occasionally attacking guide dogs or other service animals, as was documented in the Oregonian in 2010. once attacked, most guide dogs can not be retrained – meaning an investment of thousands of dollars and hours of volunteer time is wasted. As recent as April of 2012 another guide dog was attacked.

Damaging the Economy

"Some days I actually feel like it's a war zone out there."

"I have not been to any other city that had so much panhandling. It is annoying and intimidating."

"What the heck is going on out there with the pan handlers in the Oregon Convention Center?"

"They could not stop talking about their first and strongest impression of Portland-- panhandlers and homeless people."

"here were more panhandlers than she'd ever seen before, and they were much more aggressive and intimidating."

"We're all starting to talk about the possibilities of moving the office to a cleaner, safer location."

The impact on the economy is significant. We hear from conventions that they will not return to Portland because their attendees had such a negative experience. Visitors to Portland regularly email to say that they loved the city – but would hesitate to return due to the downtown environment. Long-time downtown firms are struggling to stay because their employees don't feel safe. Shop owners, who work tirelessly to compete with suburban locations with free parking and controlled environments, are losing customers who simply won't tolerate the fear and intimidation of the downtown sidewalks.

Different Opinions

- “I think it is constitutional”
- “I think the various provisions are very reasonable in light of what the City Council had to try to resolve, a major dispute between various kinds of interests, and that’s what politics is all about.
- It was the legislative branch taking the normal give and take from various parties, and fashioning an ordinance.

There are differing opinions about the city’s previous efforts to craft a compromise sidewalk ordinance. Although one judge inferred state preemption, another judge, Multnomah County Circuit Court Judge Terry G. Hannon found (*State of Oregon vs. Correy Gene Newman*, December 3, 2008) that the ordinance was not only constitutional but was a good example of balancing the needs of various sidewalk users.

Burden shouldn't be on those using the sidewalks for transportation



At the end of the day, the burden shouldn't be on those who are simply trying to use the sidewalks for their primary intended purpose – transportation – to enforce basic courtesy and decorum. But that's the effect of having the disorderly conduct statute preempting city ordinances.

In search of a better way



We are asking for the opportunity to explore ways to address these conflicts that do not run counter to constitutionally protected rights of free speech and assembly and balance the needs of sidewalk uses. We think that there are ways to achieve that balance and with the passage of this measure, we will have the chance to explore them at the local level.