

★ **Roll Call Number**

Agenda Item Number

45

Date February 28, 2011

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Sections 74-115, 102-4, 102-41, 102-318 and 102-330, relating to the use of mobility devices by persons with disabilities",

presented.

Moved by _____ that this ordinance be considered and given first vote for passage.

(Council Communication No. *11-125*)

FORM APPROVED:

(First of three required readings)

Ann DiDonato
 Ann DiDonato
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

 Mayor

 City Clerk

ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Sections 74-115, 102-4, 102-41, 102-318 and 102-330, relating to the use of mobility devices by persons with disabilities.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended by amending Sections 74-115, 102-4, 102-41, 102-318 and 102-330 relating to the use of mobility devices by persons with disabilities, as follows:

Sec. 74-115. Multi-Use Recreational Trails.

(a) **Definition.** Multi-use recreational trails are defined pursuant to section 114-1.

(b) **Permitted Uses.** Except as otherwise provided, the following uses are permitted on multi-use recreational trails:

- (1) persons walking, jogging or running;
- (2) persons utilizing or operating a non-motorized device ~~or vehicle~~, such as a bicycle, skateboard, inline skates or wheelchair;
- (3) persons with mobility disabilities using manually operated or power-driven wheelchairs and manually powered mobility aids for the purpose of locomotion;
- (34) motorized devices designed for use by persons with mobility disabilities using an other power-driven mobility device for the purpose of locomotion, as provided in 28 CFR 35;
- (45) official emergency vehicles and authorized maintenance vehicles as necessary to perform the duties of the operator.

(c) **Uses Not Permitted.** Except as otherwise provided, the following uses are not permitted on multi-use recreational trails:

- (1) motorized vehicles, except where the trail utilizes an existing road, street or highway;
- (2) equestrian uses;

- (3) skateboards are not permitted on the portions of trails that utilize an existing road, street or highway.

(d) **Hours of Permitted Use.** Multi-use recreational trails shall be open for use by the public for recreation and transportation at all times, except for the following:

- (1) hours of use of sections of trails may be limited by the park and recreation board;
- (2) sections of trails may be closed temporarily in emergency situations by the park and recreation director.

(e) **Official Signs.** Every user of a recreational trail shall observe and obey any and all official signs posted along a recreational trail, including, but not limited to, speed limits, hours of use, stop signs and yield signs.

(f) **Reasonable Speed.** Each person using the trail shall travel at a speed that is reasonable and prudent under the conditions then existing and shall not travel in such a manner as to constitute a willful or wanton disregard for the safety of persons or property.

Sec. 102-4. Use of coasters, skateboards and similar devices.

- (a) No person upon a skateboard, coaster, or similar device shall operate or use such on any street, highway, alley, or parking garage.
- (b) No person upon a skateboard, coaster, or similar device shall operate or use such on any work of art, sculpture or monument or on any planter, freestanding flower or tree box, flower bed or garden, fountain or park equipment, nor shall such devices be used on any public stairway or access ramps, including those built for use by persons with disabilities~~the disabled~~ ~~or other people~~, nor on any area designed and used for public seating in an amphitheater or similar area.

Sec. 102-41. Horses or vehicles.

No person shall push, draw, lead or drive any horse, cart, wagon or other vehicle upon any sidewalk except in crossing the sidewalk to go into a yard or lot nor shall any person leave any horse, cart, wagon or other vehicle upon any sidewalk so as to obstruct its free use. Manually operated or power-driven wheelchairs, manually-powered mobility aids, and other power driven mobility devices used by persons with a mobility disability for the purpose of locomotion, as provided in 28 CFR 35, shall be permitted upon sidewalks.

Sec. 102-318. Purposes and policy.

The city finds and declares that it is the responsibility of the city to coordinate and integrate the development of the transportation system for downtown, including streets, parking facilities and accommodations, sidewalks, skywalks, bus stops and taxi stops, related street signs, traffic control devices, markings and regulations and other related structures and facilities, and further finds and declares that the development of a skywalk-level sidewalk system (to be known as the skywalk system) in the skywalk district, as an integral part of the transportation system, is a benefit to the public in that it (i) enables pedestrians with or without physical ~~handicaps~~ disabilities to move in an enclosed second story skywalk system protected from adverse weather and vehicles, (ii) reduces pedestrian-vehicle conflicts at the street level, (iii) encourages a more efficient use of public parking facilities, (iv) promotes increased and more efficient pedestrian travel within the downtown, (v) encourages shopping and economic growth in the urban renewal area and other adjacent portions of the downtown area by inducing redevelopment, remodeling and more intensive retail, commercial and residential use, thereby increasing employment opportunities and increasing the tax base for the city and other taxing jurisdictions, and (vi) provides an opportunity for aesthetic improvements, particularly at nodal areas of the skywalk system. Therefore, it is the policy of the city to participate in developing the public skywalk system shown on the skywalk system plan map by constructing the skywalk bridges across the public rights-of-way and by obtaining easements for skywalk corridors and nodal points under the provisions and within the limitations of this article.

Sec. 102-330. Standards of usage.

- (a) The skywalk corridors and skywalk bridges shall be open for public pedestrian travel between the hours of 6:00 a.m. and 2:00 a.m. seven days a week, except that the skywalk corridors and skywalk bridges or portions thereof shall be open for such additional hours as the skywalk committee may approve in accordance with subsection 102-322(4) of this article and except that portions of the skywalk corridors and skywalk bridges shall be open for such reduced hours as the skywalk committee may approve in accordance with subsection 102-324 of this article. The vertical access facilities shall be open during the regular building or business hours of the building or business in which they are located, but not in excess of the hours the skywalk corridors they serve are open.
- (b) During the hours when a portion of the skywalk system is open, it shall be available for use by the general public without restriction as to age, sex, religion, race, creed, color, sexual orientation, national origin, ancestry, or physical


- disability. During the hours when a portion of the skywalk system is open, no private property interest whose property is traversed by that portion of the skywalk system shall block or close that portion of the skywalk system designated as open.
- (c) It shall be unlawful for persons to collect, assemble or group together and after being so collected, assembled or grouped together to stand or loiter on any portion of the skywalk system to the hindrance or obstruction of free passage of any person passing on or along such skywalk system.
 - (d) It shall be unlawful for persons to congregate, stand, loaf or loiter in or in front of any doorway, passage or entrance to any portion of the skywalk system so as to obstruct the doorway, passage or entrance or to hinder or prevent persons walking along or into or out of the skywalk system or attempting or desiring to do so.
 - (e) Groups of three or more persons who do not immediately leave the vicinity or disperse when asked to do so by any member of the public or by a police officer shall be presumed to have congregated, stood, loafed or loitered in violation of subsection (c) or (d) of this section, but it shall not be necessary to request such people to move, leave the vicinity or disperse in order to prove a violation of subsection (c) or (d) of this section.
 - (f) No more than two persons at any one time shall use a skywalk bridge as a locus for peaceful picketing, public speaking, leafleting, or other lawful expressions of opinion not in contravention of other laws, and no person shall conduct such activities in any portion of the skywalk system except on a skywalk bridge. It shall be unlawful to conduct such activities in such a manner as to block, obstruct or hinder any use of the skywalk system or normal activities in the adjacent buildings or properties.
 - (g) No person shall bring, allow or permit an animal to be in the skywalk system, except that, as provided by I.C. § 216C.11, a person with a disability or a person training an assistive animal has the right to be accompanied by a service dog or an assistive animal, under control.
 - (h) Other than manually operated or power-driven wheelchairs, manually-powered mobility aids and other power-driven mobility devices used by persons with a mobility disability for the purpose of locomotion, as provided by 28 CFR 35,~~motorized wheelchairs or electric scooters used by handicapped persons~~ and vehicles used in operating, maintaining and repairing the skywalk system, no person shall use or operate a motor vehicle, moped, bicycle, skateboard or roller skates in the skywalk system.
 - (i) No person shall play a radio, tape recorder, or other sound-amplifying device in the skywalk system so as to permit the sound from the radio, tape player or other sound-amplifying device to be audible to another person, except that peace

officers and security personnel may play radios tuned to official police or security frequencies and except that persons in those businesses along the skywalk system may continue to play radios, tape recorders or other sound-amplifying devices as is usual in the course of business.

- (j) No person shall stand or sit on any radiator or other fixture in the skywalk system, except on a bench or seat provided in that portion of a nodal area outside the skywalk corridor.
- (k) No person shall erect any advertising or signs, other than official skywalk system signs approved by the skywalk committee, in any skywalk corridor or skywalk bridge, except that store or building name signs or building directories may be permitted by the skywalk committee on the sidewalls of skywalk corridors, and except that temporary street banner signs announcing a public event or service attached to the exterior of skywalk bridges may be permitted providing that specific approval is granted under regulations established by the city council. No person shall erect any sign on property adjacent to the skywalk system that is so similar to an official skywalk sign or graphics as to cause confusion.
- (l) No person shall be upon or remain upon any skywalk corridor or skywalk bridge roof without the authorization of the skywalk committee unless use of such roof is for a bona fide maintenance activity or emergency.
- (m) No person shall use or consume alcoholic liquor, wine or beer in any skywalk corridor or skywalk bridge during the hours when such skywalk corridor or skywalk bridge is open for public pedestrian travel.
- (n) No person shall enter upon any portion of the skywalk system, its skywalk bridges or corridors and conduct activities thereon in disregard of signs or posted notices as promulgated or authorized by the skywalk committee.
- (o) No person shall willfully fail or refuse to comply with any lawful order or direction of a peace officer invested by law with authority to patrol the skywalk system and its skywalk bridges and corridors.
- (p) Violation of this section shall be punishable as a simple misdemeanor.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:



 Ann DiDonato
 Assistant City Attorney