

**AGENDA ITEM SUMMARY**  
**FORT COLLINS CITY COUNCIL**

**ITEM NUMBER: 10**  
**DATE: October 20, 2009**  
**STAFF: Joe Olson**  
**Steve Roy**  
**Jim Szakmeister**

**SUBJECT**

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Second Reading of Ordinance No. 098, 2009, Amending Section 805 of the Fort Collins Traffic Code Related to Pedestrians Walking or Traveling in a Wheelchair on a Highway.

**RECOMMENDATION**

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Staff recommends adoption of this Ordinance on Second Reading.

**EXECUTIVE SUMMARY**

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This Ordinance, unanimously adopted on First Reading on October 6, 2009, changes the Fort Collins Traffic Code to allow pedestrians, including wheelchair users, to legally travel in a bike lane or on a road shoulder if an adjacent sidewalk is in a condition that substantially interferes with the mode of travel used by the pedestrian.

**ATTACHMENTS**

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1. Copy of First Reading Agenda Item Summary - October 6, 2009.  
(w/o original attachments)

## AGENDA ITEM SUMMARY

### FORT COLLINS CITY COUNCIL

**ITEM NUMBER:** 19

**DATE:** October 6, 2009

**STAFF:** Joe Olson  
Steve Roy  
Lt. Jim Szakmeister

#### SUBJECT

First Reading of Ordinance No. 098, 2009, Amending Section 805 of the Fort Collins Traffic Code Related to Pedestrians Walking or ~~Traveling~~ in a Wheelchair on a Highway.

#### RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading

#### EXECUTIVE SUMMARY

This Ordinance will change the Fort Collins Traffic Code to allow pedestrians, including wheelchair users, to legally travel in a bike lane or on a road shoulder if an adjacent sidewalk is in a condition that substantially interferes with the mode of travel used by the pedestrian.

#### BACKGROUND

The current Fort Collins Traffic Code makes it illegal for pedestrians -- including those traveling in wheelchairs -- to use streets in locations where sidewalks exist. The City's Traffic Code is in general compliance with the State Laws of Colorado. The rationale behind the existing Traffic Code and state law is that pedestrians are safest on a sidewalk that is physically separated from the roadway.

Several citizens have requested changes to the Code that would allow wheelchair users the option to use on-street bike lanes in lieu of a sidewalk. They have noted that in many instances the condition of sidewalks is such that travel by wheelchair is difficult or even impossible.

Although the intent of the existing law is to promote safe travel by pedestrians, it is apparent that there is a need to provide some flexibility to allow pedestrians to use the streets when the condition of sidewalks deters safe travel. The Police Department, the Traffic Operations Department and the City Attorney's Office have worked collaboratively to develop a new version of the pertinent section of the Fort Collins Traffic Code that would allow pedestrians to legally use the street to travel if an adjacent sidewalk is in a condition that would substantially interfere with pedestrian travel. Pedestrians would have to return to the sidewalk as soon as the condition which interfered with their travel was no longer present.

City staff solicited input from other communities and organizations around the country and did not find any that had experience allowing wheelchair users to utilize bike lanes where sidewalks are present. The United States Access Board, an independent federal agency that interprets the Americans with Disabilities Act, recommended maintaining pedestrian status for wheelchair users. The Board suggested that any ordinance changes pertain to all pedestrians rather than separating out wheelchair users as a distinct group. This was the approach taken by staff in preparing the new ordinance.

Staff has discussed the proposed changes with the Commission on Disability. Commission members provided perspective and comments on the proposed ordinance. Commission member concerns included questions about when a sidewalk is "provided" and what constitutes a "reasonably prudent person." The Ordinance includes language reflecting the concerns of the Commission. Specifically, it was noted that a sidewalk was only considered provided if it was on the side of the street used by a pedestrian. In addition, a "reasonably prudent person" was expanded to say "reasonably prudent person having the same abilities and disabilities as the pedestrian and using the same mode of travel" to address concerns about a lack of perspective regarding the challenges faced by disabled pedestrians. The Commission on Disability voted to support the proposed ordinance. The Commission felt the ordinance addressed its concerns and the needs of the disabled community.

The proposed ordinance was also presented to the Bike Advisory Committee and the Transportation Board. The Bike Advisory Committee voted unanimously to support the proposed ordinance. The Transportation Board voted 9 - 1 in support. The one dissenting voter felt that the ordinance did not address the real issue - the need for improved sidewalk infrastructure. Letters of support from both the Bike Advisory Committee and Transportation Board are included as attachments. Staff recommends adoption of the proposed ordinance.

## ATTACHMENTS

1. Commission on Disability letter
2. Bike Advisory Committee letter
3. Transportation Board letter
4. Draft Transportation Board meeting minutes, September 16, 2009

COPY

ORDINANCE NO. 098, 2009  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING SECTION 805 OF THE FORT COLLINS TRAFFIC CODE  
RELATED TO PEDESTRIANS WALKING OR TRAVELING IN A WHEELCHAIR  
ON A HIGHWAY

WHEREAS, the Fort Collins Traffic Code prohibits pedestrian use of a bike lane or road shoulder when sidewalks are available; and

WHEREAS, although the intent of the existing law is to promote safe travel by pedestrians, it is apparent that there is a need to provide some flexibility to allow pedestrians to use the streets when the condition of sidewalks deters safe travel; and

WHEREAS, several citizens have requested changes to the Traffic Code that would allow wheelchair users the option to use on-street bike lanes in lieu of a sidewalk when the condition of sidewalks is such that travel by wheelchair is difficult or even impossible; and

WHEREAS, pedestrians would have to return to the sidewalk as soon as the condition which interfered with their travel is no longer present; and

WHEREAS, the City Council finds that the proposed amendments are in the best interests of the health, safety and welfare of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Section 805 of the Fort Collins Traffic Code is hereby amended to read as follows:

**805. Pedestrians walking or traveling in a wheelchair on highways.**

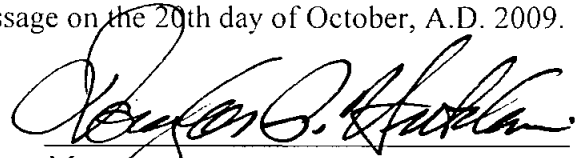
- (1) When a pedestrian intends to walk or travel in a wheelchair along or upon a highway and a sidewalk is provided on the same side of the highway as the pedestrian, it shall be unlawful for the pedestrian to walk or travel along and upon the roadway, rather than the sidewalk, except to the extent that a pedestrian's departure from the sidewalk is reasonably necessary to avoid sidewalk conditions that would, in the judgment of a reasonably prudent person having the same abilities and disabilities as the pedestrian and using the same mode of travel, substantially interfere with the pedestrian's mode of travel. Such conditions may include but are not limited to the absence of pavement, the presence of snow or ice, or the presence of uneven or broken pavement.
  - (a) Pedestrians walking or traveling in a wheelchair along and upon a highway where a sidewalk is not provided on the same side of the highway as the pedestrian or where the sidewalk provided is in a condition that substantially interferes with the mode of travel used by

the pedestrian, the pedestrian shall walk or travel only within a bike lane or on a road shoulder, as far as practicable from the edge of the roadway. Pedestrians must return to the sidewalk as soon as the condition which substantially interfered with the pedestrian's mode of travel is no longer present.

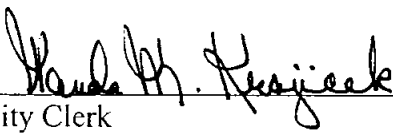
- (b) Where neither a sidewalk, bike lane or road shoulder is provided, any pedestrian walking or traveling in a wheelchair along and upon a highway shall walk as near as practicable to an outside edge of the roadway and, in the case of a two-way roadway, shall walk or travel only on the left side of the roadway facing traffic that may approach from the opposite direction; except that any person lawfully soliciting a ride may stand on either side of such two-way roadway where there is a view of traffic approaching from both directions.
- (2) No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any private vehicle. For the purposes of this Subsection (2), "roadway" means that portion of the road normally used by moving motor vehicle traffic.
- (3) It is unlawful for any person who is under the influence of alcohol or of any controlled substance, as defined in Section 12-22-303 (7), C.R.S., or of any stupefying drug to walk or be upon that portion of any highway normally used by moving motor vehicle traffic, including bike lanes.
- (4) This Section applying to pedestrians shall also be applicable to riders of animals.
- (5) The City may, by ordinance, regulate the use by pedestrians of streets and highways under its jurisdiction to the extent authorized under Subsection (6) of this Section and Sections 42-4-110 and 42-4-111, C.R.S., but no ordinance regulating such use of streets and highways in a manner differing from this Section shall be effective until official signs or devices giving notice thereof have been placed as required by Section 42-4-111 (2), C.R.S.
- (6) No person shall solicit a ride on any highway included in the interstate system, as defined in Section 43-2-101 (2), C.R.S., except at an entrance to or exit from such highway or at places specifically designated by the Colorado Department of Transportation; or, in an emergency affecting a vehicle or its operation, a driver or passenger of a disabled vehicle may solicit a ride on any highway.
- (7) Pedestrians shall only be picked up where there is adequate road space for vehicles to pull off and not endanger and impede the flow of traffic.

- (8) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of Section 213 or of a police vehicle properly and lawfully making use of an audible signal only, every pedestrian shall yield the right-of-way to the authorized emergency vehicle and shall leave the roadway and remain off the same until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. This Subsection (8) shall not relieve the driver of an authorized emergency vehicle from the duty to use due care as provided in Sections 107(4) and 807.

Introduced, considered favorably on first reading, and ordered published this 6th day of October, A.D. 2009, and to be presented for final passage on the 20th day of October, A.D. 2009.

  
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Mayor

ATTEST:

  
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City Clerk

Passed and adopted on final reading on the 20th day of October, A.D. 2009.

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Mayor

ATTEST:

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City Clerk