

Selected Billings Ordinances Applicable to Pedestrian Issues

Open Container Violation

Sec. 3-202. - Prohibited acts.

Public drinking and public display and exhibitionism of alcoholic beverages as defined in section 3-201 is prohibited and it is unlawful for any person to engage in public drinking as defined in section 3-201 within the limits of the city, and it is unlawful for any person to engage in public display or exhibitionism of alcoholic beverages as defined in section 3-201 within the city limits.

(Code 1967, § 6.16.020)

Sec. 3-203. - Exceptions; special permit required.

A special permit for the purpose of permitting public drinking and public display as exhibitionism in a specific location shall be allowed in the circumstances set out in section 19-202. A fee for such permit shall be charged. The amount of such fee shall be sufficient to cover the administrative costs of issuance and shall be established by the city administrator.

(Code 1967, § 6.16.030; Ord. No. 00-5125, § 1, 6-26-00)

Panhandling/Aggressive Solicitation

Sec. 18-1001. - Commercial solicitation, aggressive solicitation, and penalty.

(a) *Definitions.*

Commercial solicitation or to commercially solicit is any request made in person on a street, sidewalk, or public place, asking for an immediate donation of money or other things of value, including the purchase of an item or service for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is a donation. Commercial solicitation shall not include passively standing or sitting with a sign or other indication that one is seeking donations without addressing the request to any specific person.

(b) *Commercial solicitation in certain areas.* It shall be unlawful for any person to commercially solicit when the person solicited is in any of the following places within the city:

- (1) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property;
- (2) Within twenty (20) feet of the entrance to or exit from any public toilet facility, which includes any temporary use site (port-a-toilet);
- (3) Within twenty (20) feet of an automatic teller machine (ATM), provided that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;
- (4) Within twenty (20) feet of any parking lot pay box;
- (5) Within twenty (20) feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility;
- (6) In any public transportation vehicle, or in any bus, or within twenty (20) feet of any bus stop or taxi;

- (7) From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the owner for passengers of such vehicle;
 - (8) In a parking lot or garage owned or operated by the city, including entryways or exits and pay stations connected therewith;
 - (9) Within twenty (20) feet of any vendor's location when the vendor has a valid permit under articles 19-400 or 7-1200.
- (c) *Nighttime commercial solicitation.* It shall be unlawful for any person to commercially solicit after sunset and before sunrise.
- (d) *Aggressive solicitation.* It shall be unlawful for any person to commercially solicit in any of the following manners:
- (1) By blocking the path of the person solicited; or
 - (2) By following or walking alongside the person solicited; or
 - (3) By using profane or abusive language, either during the solicitation or following refusal;
 - (4) By accosting or forcing oneself upon the company of another;
 - (5) By continuing to solicit a person who has made a negative response, either verbally or by physical sign;
 - (6) By any statement, gesture, or other communication which a reasonable person in the situation of the person solicited would perceive to be a threat;
 - (7) By engaging in any conduct that would cause a reasonable person to feel compelled or to be fearful.
- (e) *False or misleading solicitation.* It shall be unlawful for any person to knowingly make any false or misleading representation in the course of soliciting a donation. False or misleading representations include, but are not limited to, the following:
- (1) Stating that the solicitor is from out of town and stranded when such is not true;
 - (2) Stating or suggesting falsely that the solicitor is either a present or former member of the armed service indicated;
 - (3) Wearing or displaying an indication of physical disability, when the solicitor does not suffer the disability indicated;
 - (4) Stating that the solicitor is homeless, when he or she is not.
- (f) *Exemption.* The city council may by resolution temporarily suspend the requirements and restrictions imposed by this section in order to accommodate charitable fund raising events. The granting of such an exemption is discretionary with the city council, may include conditions, and is limited to a duration of twenty-four (24) hours.
- (g) *Penalty.* A person convicted of a violation of this section shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment.

(Ord. No. 04-5265, § 1, 2-9-04; Ord. No. 07-5411, § 1, 5-14-07)

Editor's note— Ord. No. 07-5411, § 1, adopted May 14, 2007, changed the title of § 18-1001 from "Aggressive solicitation and penalty" to "Commercial solicitation, aggressive solicitation and penalty." Said ordinance also enacted provisions intended for use as subsections (1)—(7). To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections (a)—(g).

Selected Missoula Ordinances

Chapter 9.34

PEDESTRIAN INTERFERENCE

Sections:

[9.34.010 Title.](#)

[9.34.020 Purposes.](#)

[9.34.030 Definitions.](#)

[9.34.040 Prohibited conduct.](#)

[9.34.050 Violation--Penalty.](#)

9.34.010 Title. This chapter shall be known as the city of Missoula Pedestrian Interference Act. (Ord. 3521, 2014; Ord. 2861 §1, 1993; Ord. 2853 §1, 1993).

9.34.020 Purposes. The purpose of this chapter is to protect the health, safety and welfare of the citizens of and visitors to the city by prohibiting acts of aggression or interference towards pedestrians. This includes prohibiting actions that intentionally obstruct pedestrian passage on public bridges, streets, sidewalks, parks and other publicly held or owned lands. The city council declares that such prohibitions are necessary and desirable for the following reasons:

A. The city deems it necessary to find solutions to make it easier for the city's diverse residents and visitors to share public areas.

B. The city deems it necessary to find solutions to encourage courteous behavior of people in order to promote greater tolerance and civility towards each other while narrowly defining unacceptable behaviors.

C. Records kept by the Downtown Business Improvement District of Missoula (BID) show there has been an increase in the number of persons interfering with, obstructing, harassing, threatening and intimidating other pedestrians on city streets in recent years, many of whom are wearing or carrying weapons or who are more aggressive or intimidating in their conduct. This conduct has been either related to obstruction of pedestrian passage or soliciting of pedestrians;

D. The police department and other city offices have received complaints from citizens complaining that they are afraid to walk, or as business people, are afraid to

allow their customers to walk on downtown city streets and riverfront walkways as a result of the aggressive, intimidating conduct of persons soliciting and/or conduct of persons harassing, intimidating, interfering with, obstructing or accosting pedestrians or people in public places;

E. The city deems it necessary to protect the rights of its citizens and visitors to move openly and freely on the city streets, sidewalks, walkways, parks and other public places without fear of being harassed, interfered with, obstructed, accosted, intimidated, injured or robbed by aggressive individuals interfering with their passage; and

F. The city deems it necessary to protect pedestrians, in public places on public property from obstruction, interference, intimidation, harassment, damage or injury caused or partially attributable to being accosted, harassed, interfered with or obstructed by any person, especially someone with a weapon.

(Ord. 3521, 2014; Ord. 3411 §1, 2009; Ord. 2861 §2, 1993; Ord. 2853 §2, 1993).

9.34.030 Definitions. The following definitions shall apply to the provisions of this chapter.

A. "Accost" means physically approaching or, when in close proximity to an individual, speaking to that individual in such a manner as would cause a reasonable person to fear imminent bodily harm or fear endangerment that the commission of a criminal act upon his or her person, or upon property in his or her immediate possession, may be about to be committed by the accoster. "Accost" does not include passive, nonobstructive speech or conduct while standing or sitting along the side of a sidewalk or walkway if it does not physically obstruct pedestrians.

B. "Harass" means words, conduct, or actions directed toward another which would reasonably be expected to annoy, alarm, or cause emotional distress. Repeated or persistent harassment of individuals in a similar circumstance infers intent to harass the individual subjected to the behavior described.

C. "Intimidate" means to engage in conduct which would make a reasonable person fearful of imminent harm to his person or property or feel threatened.

D. "Knowingly" means a person acts knowingly with respect to conduct or to a circumstance described by an ordinance defining an offense when he is aware of his conduct or that the circumstance exists. A person acts knowingly with respect to the result of conduct described by an ordinance defining an offense when he is aware that it is highly probable that such result will be caused by his conduct. When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person is aware of a high probability of its existence. Equivalent terms such as "knowing" or "with knowledge" have the same meaning.

E. "Obstruct" means to walk, stand, sit, lie or place an object in such a manner as to impair, hinder or block passage by another person or to require another person to

take evasive action to avoid physical contact. Acts authorized as an exercise of one's constitutional right to picket or to legally protest shall not constitute obstruction of or interference with pedestrian traffic.

F. "Public Place" means a place to which the public or a substantial group of people has access.

G. "Purposely" means a person acts purposely with respect to a result or to conduct described by an ordinance defining an offense if it is his conscious object to engage in that conduct or to cause that result. When a particular purpose is an element of an offense, the element is established although such purpose is conditional, unless the condition negates the harm or evil sought to be prevented by the law defining the offense. Equivalent terms such as "purpose" and "with the purpose" have the same meaning.

H. "Sit" means to be in a position in which your bottom is resting on a chair, the ground, etc. with your back upright.

I. "Weapon" means any firearm, knife, sword, club or any other object used as a weapon by the offender when violating the provisions of this chapter.

(Ord. 3521, 2014; Ord. 3411 §2, 2009, 2009Ord. 2861 §3, 1993; Ord. 2853 §3, 1993).

9.34.040 Prohibited conduct. The following conduct or action is prohibited pursuant to the city of Missoula "Pedestrian Interference Act" and is considered to be a violation of this chapter.

A. It is unlawful for any person to sit, lie or sleep on a sidewalk within ten (10) feet of a public entrance to a commercial building, in the City of Missoula's Central Business District.

B. It is unlawful for any person to sit, lie or sleep upon any street or alley within the city limits of Missoula.

C. It is unlawful for any person to lie or sleep on a public sidewalk, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk during the hours between 6:00 am and 11:00 pm in the City of Missoula's Central Business District:

D. It is unlawful for any person to sit, lie or sleep on or within ten (10) feet of any entrance/exit to, any pedestrian foot bridge, including but not limited to the Van Buren Street, Madison Street, California Street and North Side pedestrian foot bridges.;

E. It is unlawful for any person to walk, stand, sit or place an object in such a manner which obstructs or hinders passage of pedestrians on any street crosswalk, sidewalk or other public right-of-way by leaving less than six contiguous feet (6') of clear right-of-way for pedestrian passage for sidewalks that are twelve feet or wider in width, and no less than fifty percent (50%) of the sidewalk width for clear right-of-way for pedestrian passage on sidewalks within the city limits

F. It is unlawful for any person on a public bridge, sidewalk, walkway, park or any other publicly held or owned land to purposely or knowingly harass or intimidate another person as defined herein.

G. Exceptions. The prohibition in Section 9.34.040(A and C) shall not apply to any person:

1. Sitting or lying down on a public 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 business which has permission to occupy the sidewalk; or a person participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on the public sidewalk pursuant to special event or other 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 zoned while waiting for public or private transportation.
6. Engaging in constitutionally protected expressive activities which would otherwise be unreasonably restricted by the limitations in Subsections A, C, of this section.

(Ord. 3411 §3, 2009; Ord. 2861 §4, 1993; Ord. 2853 §4, 1993).

9.34.050 Violation--Penalty. A person shall not be cited under Section 9.34.040 unless the person continues to engage in conduct prohibited by Section 9.34.040 after having been notified at the time of the incident by a law enforcement officer that the conduct violates section 9.34.040. A person convicted of a violation of this chapter shall be guilty of a misdemeanor and shall be fined not to exceed one hundred dollars.

(Ord. 3521, 2014; Ord. 3411 §4, 2009; Ord. 2861 §5, 1993; Ord. 2861 §5, 1993).

Chapter 9.36

SOLICITATION AND AGGRESSIVE SOLICITATION AS ACTS OF DISORDERLY CONDUCT

Sections:

[9.36.010 Title](#)

[9.36.020 Purposes](#)

[9.36.030 Definitions](#)

[9.36.040 Aggressive Soliciting](#)

[9.36.050 Soliciting in Certain Places](#)

[9.36.060 False or Misleading Soliciting](#)

[9.36.070 Violation—Penalty](#)

9.36.010 Title. This chapter shall be known as the City of Missoula Solicitation and Aggressive Solicitation as Acts of Disorderly Conduct Act. (Ord. 3522, 2014; Ord. 3404, 2009)

9.36.020 Purposes. The purpose of this chapter is to protect the health, safety and welfare of the citizens of and visitors to the city by prohibiting acts of aggression or interference towards pedestrians as allowed by Section 7-32-4304 of the Montana Code Annotated. This includes prohibiting aggressive soliciting actions that threaten, harass, intimidate or cause fear of bodily injury in pedestrians; general soliciting in places where pedestrians and citizens are more open to threats of aggression or harm; general soliciting that poses a threat of harm to pedestrians and vehicle traffic; and false or misleading soliciting actions. The city council declares that such prohibitions are necessary and desirable for the following reasons:

A. The city deems it necessary to find solutions which make it easier for people to remain in public places peacefully rather than be excluded from them in order to make it easier for the city's diverse residents and visitors to share public areas with less conflict.

B. The city deems it necessary to find solutions to encourage courteous behavior of people in order to promote greater tolerance and civility towards each other while narrowly defining unacceptable behaviors.

C. There has been an increase in the number of persons aggressively soliciting, or while soliciting, interfering with, obstructing, harassing, threatening and intimidating other pedestrians, or impeding vehicles and pedestrians in traffic on city streets in recent years. This conduct has been either related to obstruction of pedestrian passage or soliciting of pedestrians;

D. The police department and other city offices have received complaints from citizens complaining that they are afraid to walk, or as business people are afraid to allow their customers to walk, on downtown city streets and riverfront walkways as a result of the aggressive, intimidating conduct of persons soliciting and/or conduct of persons harassing, intimidating, interfering with, obstructing or accosting pedestrians or people in public places;

E. The city deems it necessary to protect the rights of its citizens and visitors to move openly and freely on the city streets, sidewalks, walkways, parks and other public places without fear of being aggressively solicited, harassed, interfered with, obstructed, accosted, intimidated, injured or robbed by aggressive individuals soliciting them or interfering with their passage; and

F. The city deems it necessary to protect pedestrians, in public places on public property from obstruction, interference, intimidation, harassment, damage or injury caused or partially attributable to being aggressively solicited, accosted, harassed, interfered with or obstructed by any person, especially someone with a weapon.

G. The city deems it necessary to protect citizens in vehicles from solicitation in general to protect and preserve the welfare and safety of citizens in vehicles and pedestrians on city streets.

(Ord. 3522, 2014; Ord. 3404, 2009)

9.36.030 Definitions. The following definitions shall apply to the provisions of this chapter.

A. "Aggressive Manner" shall mean:

1. Approaching or speaking to a person, or following a person before, during or after soliciting if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, or damage to or loss of property or otherwise be intimidated into giving money or other things of value;

2. Continuing to solicit from a person after the person has given a negative response to such soliciting;

3. Intentionally touching or causing physical contact with another person without that person's consent in the course of soliciting;

4. Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;

5. Using violent or threatening gestures towards a person solicited;

6. Using profane or abusive language which is likely to provoke an immediate violent reaction from the person being solicited;

7. Following the person being solicited, with the intent of asking that person for money or things of value.

- B. "Harass" means words, conduct, or actions directed toward another which would reasonably be expected to annoy, alarm, or cause emotional distress.
- C. "Intimidate" means to engage in conduct which would make a reasonable person fearful of imminent harm to his person or property or feel threatened.
- D. "Knowingly" means a person acts knowingly with respect to conduct or to a circumstance described by an ordinance defining an offense when he is aware of his conduct or that the circumstance exists. A person acts knowingly with respect to the result of conduct described by an ordinance defining an offense when he is aware that it is highly probable that such result will be caused by his conduct. When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person is aware of a high probability of its existence. Equivalent terms such as "knowing" or "with knowledge" have the same meaning.
- E. "Public Place" means a place to which the public or a substantial group of people has access.
- F. "Purposely" means a person acts purposely with respect to a result or to conduct described by an ordinance defining an offense if it is his conscious object to engage in that conduct or to cause that result. When a particular purpose is an element of an offense, the element is established although such purpose is conditional, unless the condition negates the harm or evil sought to be prevented by the law defining the offense. Equivalent terms such as "purpose" and "with the purpose" have the same meaning.
- G. "Soliciting" shall mean asking for money or objects of value, with the intention that the money or object be transferred at that time and at that place. Soliciting shall include using the spoken, written or printed word, bodily gestures, signs or other means for the purpose of urging, requesting, commanding or obtaining an immediate donation of money or other thing of value or soliciting the sale of goods or services.

(Ord. 3522, 2014; Ord. 3404, 2009)

9.36.040 Aggressive Soliciting. No person shall solicit in an aggressive manner in any public place. (Ord. 3522, 2014; Ord. 3404, 2009)

9.36.050 Soliciting in Certain Places. It shall be unlawful for any person to solicit in the following places:

- A. Banks and ATM's. No person shall solicit within twenty (20) feet of any entrance or exit of any check cashing business or bank, or within twenty feet of any

automated teller machine. Provided, however, that when an automated teller machine is located within a building or facility, such distance shall be measured from the entrance or exit of the facility;

- B. Motor Vehicles and Parking Lots. No person shall solicit in any public transportation vehicle, within ten (10) feet of any bus or bus station or stop, in any public or private parking lot or structure, or within ten (10) feet of any parking lot pay box.
- C. No person shall solicit within ten (10) feet of a public entrance to a commercial building in the City of Missoula's Central Business District.
- D. No person shall solicit within ten (10) feet of any outdoor patio or sidewalk café where food or drink is served.
- E. No person shall solicit within ten (10) feet of any vendor's location when the vendor has a valid permit.
- F. No person shall solicit within ten (10) feet of any pay telephone.
- G. No person shall solicit within ten (10) feet of the entrance to or exit from any public toilet facility, which includes any temporary use site (port-a-toilet).
- H. No person shall solicit on, or within ten (10) feet of any entrance/exit to, any pedestrian foot bridge or pedestrian tunnel, including but not limited to the Van Buren Street, Madison Street, California Street and North Side pedestrian foot bridges and the Orange Street and Reserve Street pedestrian tunnels.
- I. No person shall solicit on private or residential property after having been asked to leave or asked to refrain from soliciting by the owner or other person lawfully in possession of such property.
- J. Exemption. A validly obtained Special Events Permit may provide an exemption to the provisions of this section. A Special Events permit may be obtained pursuant to Title 12, Chapter 58 of the Missoula Municipal Code.

(Ord. 3522, 2014; Ord. 3404, 2009)

9.36.060 False or Misleading Soliciting. It shall be unlawful for any person to knowingly make any false or misleading representation in the course of soliciting a donation. False or misleading representations include, but are not limited to, the following:

- A. Stating that the solicitor is from out of town and stranded when such is not true;
- B. Stating or suggesting falsely that the solicitor is either a present or former member of the armed service;
- C. Wearing or displaying an indication of physical disability, when the solicitor does not suffer the disability indicated;
- D. Stating the solicitor is homeless, when he or she is not.

(Ord. 3522, 2014; Ord. 3404, 2009)

9.36.070 Violation--Penalty. A person shall not be cited under Section 9.36.050 unless the person continues to engage in conduct prohibited by section 9.36.050 after having been notified at the time of the incident by a law enforcement officer that the conduct violates section 9.36.050. A person convicted of a violation of this chapter shall be guilty of a misdemeanor and shall be fined not to exceed one hundred dollars. (Ord. 3522, 2014; Ord. 3404, 2009)