

Chapter 62.10

STREET AND SIDEWALK OBSTRUCTIONS*

* **Cross References:** Streets and sidewalks, CBJ Code § 03.30.061 et seq.
State Law References: Obstruction of highways, AS 11.61.150.

62.10.010 Permit required.
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62.10.010 Permit required.

Any person desiring to use any sidewalk, street or alley during the construction, or repair of any building or in making necessary repairs or improvements shall, before commencing the construction or repairs, make written application to the director of the engineering department for the use of the street, alley or sidewalk, which permit may in the discretion of the director of the engineering department be granted to the person upon such terms and conditions and for such time as the engineering department shall deem expedient and proper. (JCC § 9-2-2; Serial No. 2003-07(am), § 4, 5-12-2003)

62.10.020 Obstructions prohibited.

- (a) *Violations.* It shall be unlawful for any person to cause or allow:
 - (1) Any impairment of a pedestrian way.
- (b) *Penalty.* Violation of this section is an infraction.
- (c) *Defenses.* It is a defense to prosecution under this section that the impairment is or consists of:
 - (1) A capital transit facility, traffic control device, sign, street light, public trash receptacle, bicycle rack, or other structure or object lawfully placed on a sidewalk by or on behalf of the state or the city and borough;[JRC2]
 - (2) A sign or display while in use as part of a lawfully conducted demonstration or rally provided that the object does not obstruct pedestrian traffic and further provided that it is used and displayed only during the period of time that the demonstration or rally is attended and ongoing and the attendees remove the sign or display at the conclusion of the demonstration or rally;
 - (3) Landscaping placed on a sidewalk in compliance with applicable law;
 - (4) An item placed as part of a lawful street closure or street fair;

- (5) A street or sidewalk vending cart authorized under CBJ 62.10.050 or 62.10.070, or a newspaper vending apparatus placed as authorized under this section;
- (6) A sidewalk construction permit issued under CBJ 62.10.010;
- (7) Poles, distribution boxes, and related structures of utilities;
- (8) Postal deposit and delivery boxes;
- (9) A building encroachment or other permanent obstruction for which the abutting owner has a current and valid permit issued under CBJ 62.55;
- (10) An artistic performance at a location designated in writing for that purpose by the director; or
- (11) Any impairment authorized by a permit issued under this section.

(d) *Penalties.* Violation of this article is an infraction.

(e) *Permit application.* Persons who desire to obtain a permit for an impairment of a pedestrian way shall make application to the director on a form acceptable to the director.

(f) *Permit review.* The director shall review permit applications and shall approve an application as submitted or limited subject to subsection (g) of this section, provided that a permit shall be denied if the director finds that:

- (1) The application is incomplete or materially untruthful;
- (2) The proposed impairment relates to work or an activity that can reasonably be accomplished by alternative methods that, even if they might be more costly, would not require impairment of the pedestrian ways; or
- (3) Based upon the scope and nature of the proposed impairment and the anticipated pedestrian use of the pedestrian way at the times requested, that the impairment would substantially inconvenience pedestrians in their use of the pedestrian ways and that the inconvenience would outweigh any public benefits from the work, function, or activity for which the impairment is proposed.

(g) *Permit limitations.* The director may impose reasonable limitations upon the time, place, and manner of a permitted pedestrian way impairment, which shall be consistent with the nature and time of the impairment and its anticipated effects upon pedestrian use of the pedestrian ways. The director may require the permit holder to provide pedestrian traffic control devices, alternative pedestrian walkways, whether covered or open, signage, and traffic control personnel at the permit holder's expense. The permit holder shall furnish any required traffic control personnel, in accordance with directives of the chief of police and at the permit holder's expense. To the extent that another person has previously requested or obtained a permit for all or part of the pedestrian way subject to the application or the director is aware of any other activity that will also affect

pedestrian use of the pedestrian way or other pedestrian ways that would normally be used as alternative routes at the time and in the area affected by the application, the director may require the persons to coordinate their impairments or may delay the effective date of the permit until a previous impairment or activity will have been concluded.

(h) *Permit administration.* Each permit shall be issued in writing, shall set forth the location, beginning and ending dates, authorized days of the week and times of day, nature and authorized site of the authorized impairment, and any limitations imposed under subsection (g). Permits are personal to the permit holder and may not be assigned or used by any other persons.

(i) *Permit suspension and revocation.* Upon written notice to the holder, a permit may be suspended, or revoked if the director determines that it was issued by error, that the impairment is having unanticipated adverse effects upon pedestrian traffic, or that the holder has not complied with any applicable term of the permit.

(j) *Insurance.*

(1) As a condition of the issuance of a permit, the applicant shall provide evidence that the applicant holds a current policy of comprehensive general liability insurance covering the impairment, with an endorsement for any liability assumed under this article and policy limits of not less than \$100,000.00 for property damage, per occurrence, and of not less than \$100,000.00 per person, and \$100,000.00 per occurrence, for bodily injury or death.

(2) Each policy shall include a provision designating the city and borough as an additional insured with respect to activities under the permit and shall also include a provision obligating the insurer to furnish to the city and borough at least 15 days prior written notice of any cancellation.

(3) The failure of the permit holder to continuously maintain any required coverage shall cause any permit covered thereby to become void.

(4) No work may be performed on any excavation at any time when any required proof of insurance coverage is not on file in the director's office.

(k) *Emergency permits.* The director shall establish a means by which impairments of an emergency nature may be commenced upon notification and emergency authorization request to the director by telephone or electronic means, provided that a full application shall be filed on or before the conclusion of the next city and borough work day. The notification shall include an explanation of the nature of the emergency, a description of the proposed impairment, and the name and an emergency contact telephone number for the requestor. Approved requests shall be assigned control numbers, which shall be provided to the requestor.

(l) *Posting of permit.* The permit holder shall post a copy of the permit at each impairment site. For emergency impairments, the control number provided thereunder shall be posted in accordance with the aforesaid regulations until the permit is obtained and posted. In any prosecution under this section, it shall be presumed that no permit existed unless the permit or an emergency control number is posted as required under subsection (a) of this section.

(m) *Abatement.* Impairments without a permit or inconsistent with a permit shall be subject to summary abatement upon order of or by the director or any peace officer. If the person causing the impairment is present at the site, the director or peace officer shall, consistent with the nature of the impairment and ambient traffic conditions, afford an opportunity to remove the impairment. Otherwise, the impairment shall be removed by use of city forces or contractors. Any costs of removing the impairment and restoring the pedestrian way to its previous condition shall be assessed to the person who caused it, if known, and, no additional permits shall be issued to that person until the city and borough has been reimbursed for the costs. To the extent that an impairment so removed has an identifiable owner and an apparent value of \$100.00 or more, the impairment, unless of a perishable nature, shall be placed in storage for a period of 30 days, and the owner shall be notified and afforded an opportunity to have the return of the item, subject to payment of any removal and storage costs.

(n) *Definitions.* As used in this article, the following words and terms shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Crosswalk shall have the meaning ascribed to it in CBJ 72.28.010.

Director means that CBJ department head designated by the Manager.

Emergency means an unforeseen occurrence that creates a condition of substantial hazard or threat of damage or injury to life or property.

Impairment includes an excavation or removal of all or any part of a pedestrian way or portion thereof or an obstruction of a pedestrian way or portion thereof.

Obstruction means any vehicle, vehicle door, equipment, fence, structure, bulk waste container, building or construction materials or debris, barricade, cone, sign, barrel, vending machine, newsrack, or other thing or object that is placed, planted, left or erected in, upon, or over a pedestrian way that would in any manner prevent or restrict public use of or access to any part of the pedestrian way.

Pedestrian way means:

- (1) A sidewalk or crosswalk located north of Mount Roberts Road and south of Fourth Street on Thane Road, Franklin Street, South Franklin Street, Main Street, Seward Street, or
- (2) A stairway located between South Franklin Street and Gastineau Avenue.

Permit means a current and valid permit issued under subsection (h) of this section.

Public benefits means permanent improvements to the safety, appearance, or accessibility of a pedestrian way or a building adjacent to it, but does not mean the sale, advertising, or marketing of commercial goods or services.

Sidewalk shall have the meaning ascribed to it in CBJ 72.28.010.

Street means the entire width between the boundary lines of every way that is publicly maintained.

Substantially inconvenience pedestrians means to leave less than five feet across or seven feet above a pedestrian way clear for foot traffic or to cause pedestrians to walk in the street.

Utility means city and borough water and sewer service and any public entity operating under a government franchise.

(Serial No. 2003-07(am), § 5, 5-12-2003)

62.10.050 Street vending; permit required.

(a) No person may engage in the business of vending goods or services on any street except as authorized by valid street vending permit.

(b) Applications to vend on a street during the calendar year will be accepted by the manager or the manager's designee beginning October 1. Permits and the conditions thereof shall be issued on a first-come, first-served basis except that priority shall be given to those applications received between October 1 and January 1 from applicants who operated for at least three months during the previous year under a permit specifying the same location as the one applied for. If such location is not available, such applicant shall have priority in the selection of locations not themselves subject to a priority claim by a vendor who operated thereon under a previous permit. Applications shall be accompanied by a nonrefundable filing fee of \$50.00. Upon issuance of a permit, the permittee shall pay a permit fee of \$150.00 per month for each month or fractional month of the permit period applied for; except, if such period is three months or more, the applicant shall pay the first and final month's permit fee with the application, and fees for each intervening month on the first business day thereof. The fees may be adjusted by the manager from time to time to reflect increases in the cost of municipal services and increases in the cost of processing street vendor permits and monitoring street vendors. The application shall include a description of any vending cart or vending vehicle used in the business, including additions or modifications made to the cart or vehicle, the type of goods to be sold, the hours of operation, the requested location, and such other information as the manager or the manager's designee may request.

(c) Each vendor must obtain at least \$1,000,000.00 of public liability insurance naming the City and Borough as an additional insured. Prior to beginning operation, a permittee must provide the City and Borough with a broker's certificate of insurance including provisions for notification to the City and Borough if the policy is modified, canceled or terminated.

(d) A vehicle from which vending takes place is subject to parking and traffic regulations applicable to all other vehicles.

(e) Vending carts and vending vehicles may not be located in any on-street vehicle parking space in the PD 1 or PD 2 zoning parking district. Carts may be placed in on-street vehicle parking spaces outside the PD 1 and PD 2 zoning parking districts and may be placed in no parking zones both inside and outside such districts if the manager determines that the size, location and operation of the cart will not create a safety hazard.

(f) All persons vending from a cart or vehicle on a street shall ensure that persons waiting to make purchases at the cart or vehicle queue up in single file on the side away from the traveled part of the street and in such a fashion as to create the least obstruction to pedestrian traffic.

(g) A cart which is authorized under this section to be placed on the street shall be of such a size and nature or so equipped that it may be moved quickly and easily by one person. The permittee or the permittee's designee shall personally attend the cart while it is on a street.

(h) The permit issued under this section shall be prominently displayed on the cart whenever the cart is on a street and shall be prominently displayed on any vehicle during the times the vehicle is being used for vending.

(i) The manager may adopt standards for the construction and appearance of carts, the issuance and renewal of permits, and may impose time, place, method of operation and such other restrictions on a permit as may be necessary to ensure the safe and convenient use of the public streets and sidewalks. Prior to issuance, the applicant shall submit to the manager a certification by the finance department that the applicant has met the requirements of the sales tax code. A permittee may not vend on a street unless there is displayed on the cart or vehicle a current state business license, a current state food handling permit, if appropriate, and the operation meets applicable state and local health and sanitation requirements.

(j) No permit may be issued except for a street vending location designated under subsection (o) of this section.

(k) Permits shall be issued only for the sale of:

(1) Food;

(2) Goods handcrafted primarily from materials indigenous to Southeast Alaska and vended directly by the permittee;

(3) Works of visual art depicting Southeast Alaskan scenes or history; and

(4) Goods characteristic of the Russian-American period before October 18, 1867, the early territorial period before 1930, or the heritage or culture of the Alaskan Natives of Southeast Alaska.

(l) Vending carts may not exceed 15 square feet in plan area as measured squaring off all projections such as handles, wheels and shelves. An umbrella or awning may be added, but its open diameter or length may not exceed eight feet and no part of the projecting area may be less than seven vertical feet from the sidewalk or street. The manager may permit deviations from the requirements of this subsection consistent with the safe and convenient use of the public streets and sidewalks.

(m) A permittee may not engage in hawking.

(n) Vending permits may not be assigned or transferred.

(o) Prior to October 1 each year, the manager shall evaluate possible vending locations and shall designate those available during the following calendar year. Upon the request of an applicant, the manager may consider additional locations after October 1. No location may abut a sidewalk that is less than five feet in width

as measured from the curblineline to the adjacent property line.

(p) Vending permits may be denied or revoked by the manager's designee for violation of this section, upon a determination that the operation of the permittee is causing a hazard or a significant disruption of pedestrian or vehicular traffic, that the area affected by the permit is required for a public purpose, or for other cause as defined by regulations adopted by the manager. The permittee shall be given an opportunity to be heard by the manager's designee before any revocation. A person whose application is denied shall be given an opportunity to be heard by the manager's designee for reconsideration. The decision of the manager's designee may be appealed to the manager.

(Serial No. 83-76, § 2, 1983; Serial No. 83-90, § 2, 1984; Serial No. 91-08, §§ 2, 3, 1991)

62.10.060 Vending on sidewalks from private property.

No person may sell or offer to sell goods or services from private property abutting a public sidewalk in a manner which causes or is likely to cause customers to stand on the public sidewalk while ordering, making the purchase, or waiting to be served unless there is at least five feet of unobstructed sidewalk space between the cart, structure or building from which the sale takes place and the face of the curb or edge of the sidewalk if there is no curb. All persons vending in such a manner shall insure that persons waiting to make purchases queue up in single file in such a fashion as to create the least obstruction to pedestrian traffic.

(Serial No. 82-10, § 2, 1982)

62.10.070 Sidewalk vending; permit required.

(a) No person may engage in the business of vending goods or services on any sidewalk except as authorized by a valid sidewalk vending permit.

(b) Applications to vend on a sidewalk during the calendar year will be accepted by the manager or the manager's designee beginning October 1. Permits and the conditions thereof shall be issued on a first-come, first-served basis except that priority shall be given to those applications received between October 1 and January 1 from applicants who operated for at least three months during the previous year under a permit specifying the same location as the one applied for. If such location is not available, such applicant shall have priority in the selection of locations not themselves subject to a priority claim by a vendor who operated thereon under a previous permit. Applications shall be accompanied by a non-refundable filing fee of \$50.00. Upon issuance of a permit, the permittee shall pay a permit fee of \$100.00 per month for each month or fractional month of the permit period applied for; except, if such period is three months or more, the applicant shall pay the first and the final month's permit fee with the application, and fees for each intervening month on the first business day thereof. The fees may be adjusted by the manager from time to time to reflect increases in the cost of municipal services and increases in the cost of processing sidewalk vendor permits and monitoring sidewalk vendors. The application shall include a description of any vending cart used in the business, the type of goods to be sold, the hours of operation, the requested location, and such other information as the manager or the manager's designee may request.

(c) Each vendor must obtain at least \$1,000,000.00 of public liability insurance naming the City and Borough as an additional insured. Prior to beginning operation, a permittee must provide the City and Borough with a broker's certificate of insurance including provision for notification to the City and Borough if the policy is modified, canceled or terminated.

(d) Vending carts may not exceed 15 square feet in plan area as measured squaring off all projections such as handles, wheels and shelves. An umbrella or awning may be added, but its open diameter or length may not exceed eight feet and no part of the projecting area may be less than seven vertical feet from the sidewalk or street. The manager may permit deviations from the requirements of this subsection consistent with the safe and convenient use of public sidewalks by pedestrians.

(e) No cart may be located on a sidewalk in such a manner as to leave less than five feet of unobstructed sidewalk space between the cart and the face of the curb or edge of the sidewalk if there is no curb; nor in such a manner as to block the view by pedestrians of advertising on a building or of goods displayed in the window of a business unless the owner of the cart has obtained the permission of the affected business. All persons vending from a cart shall ensure that persons waiting to make purchases at the cart queue up in single file in such a fashion as to create the least obstruction to pedestrian traffic.

(f) A cart which is authorized under this section to be placed on a sidewalk shall be of such a size and nature or so equipped that it may be moved quickly and easily by one person. The permittee or designee shall personally attend the cart while it is on a sidewalk.

(g) A permit issued under this section shall be prominently displayed on the cart whenever the cart is on a sidewalk.

(h) The manager may adopt standards for the construction and appearance of carts, the issuance and renewal of permits, and may impose the time, place, method of operation, and such other restrictions on the permit as may be necessary to ensure the safe and convenient use of public sidewalks by pedestrians. Prior to issuance, the applicant shall submit to the manager a certification by the finance department that the applicant has met the requirements of the sales tax code. A permittee may not vend on a sidewalk unless the permittee has displayed on the cart or vehicle a current state business license, a current state food handling permit, if appropriate, and the operation meets applicable state and local health and sanitation requirements.

(i) No permit shall be issued except for sidewalk vending locations designated under subsection (m) of this section.

(j) Permits shall be issued only for the sale of:

(1) Food;

(2) Goods handcrafted primarily from materials indigenous to Southeast Alaska and vended directly by the permittee;

(3) Works of visual art depicting Southeast Alaskan scenes or history; and

(4) Goods characteristic of the Russian-American period before October 18, 1867, the early territorial period before 1930, or the heritage or culture of the Alaskan Natives of Southeast Alaska.

(k) A permittee may not engage in hawking.

(l) Vending permits may not be assigned or transferred.

(m) Prior to October 1 each year, the manager shall evaluate possible vending locations and shall designate those available during the following calendar year. Upon the request of an applicant, the manager may consider additional locations after October 1.

(n) Vending permits may be revoked by the manager's designee for violation of this section, upon a determination that the operation of the permittee is causing a hazard or a significant disruption of pedestrian or vehicular traffic, that the area affected by the permit is required for a public purpose, or for other cause. The permittee shall be given an opportunity to be heard by the manager's designee before any revocation. The decision of the manager's designee may be appealed to the manager.

(Serial No. 83-76, § 3, 1983; Serial No. 83-90, § 3, 1984; Serial No. 91-08, §§ 4, 5, 1991)

62.10.080 Reserved.

Editors Note: Serial No. 2003-07(am), § 6, adopted May 12, 2003, repealed § 62.10.080, which pertained to exceptions. See the Code Comparative Table.

62.10.120 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cart means any cart, counter, table, stand, box or other object which is placed on a sidewalk or street from or over which a person offers goods or services for sale.

Public convenience benches and chairs means any bench or chair placed upon the sidewalk by a permittee.

Sidewalk tables and chairs means any table or chair placed upon the sidewalk by a permittee for use in connection with the consumption of food and nonalcoholic beverages.

Vehicle means a motor vehicle or trailer licensed as such by the state.
(Serial No. 82-19, § 2, 1982; Serial No. 82-29, § 2, 1982; Serial No. 91-07, § 4, 1991)

Cross References: Definitions generally, CBJ Code § 01.15.010.

