



NATIONAL POLICY & LEGAL ANALYSIS NETWORK
TO PREVENT CHILDHOOD OBESITY



Model State Statute on Complete Streets

Developed by the National Policy & Legal Analysis Network
to Prevent Childhood Obesity (NPLAN), a project of
Public Health Law & Policy (PHLP)

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Introduction

“Complete streets” allow people to get around safely on foot, bicycle, or public transportation. Streets designed only for cars are dangerous for everyone else, and contribute to the obesity epidemic, by making it difficult for children and adults to get regular physical activity during their daily routine. In contrast, complete streets are safer, more convenient, and comfortable not only for drivers but also for pedestrians, bicyclists, children, and people with disabilities.

Model State Law

State governments have the power to fight childhood obesity and improve community health by passing complete streets policies that foster streets safe for active travel. At the National Policy & Legal Analysis Network to Prevent Childhood Obesity (NPLAN), we developed this Model State Statute on Complete Streets to assist states in making streets safe, comfortable, and convenient for everyone. Our models are developed by thoroughly surveying existing law, conducting extensive legal research, and consulting experts; the models provide effective tools that allow jurisdictions to feel confident in passing laws to improve community health. Because NPLAN is a national program, we cannot provide legal analysis that is tailored to each state’s laws, and so it is important to consult local counsel, who may need to alter elements of this model to comply with state law. In addition, states vary widely in how their transportation systems are organized and administered. As a result, local counsel may need to reorganize the policy components in this model law in order to integrate them into your state’s format.

State Statute Versus State Resolution

NPLAN has also developed a Model State or Regional Resolution on Complete Streets. The Model State or Regional Resolution also encourages agencies to approach every street project as an opportunity to make streets safe and welcoming for all users, but is more exploratory and less directive than the Model State Statute. A jurisdiction may pass a complete streets resolution and then go on to pass a law, but a resolution is not necessary where a complete streets law is adopted.

Policy Options

The model offers a variety of policy options. In some instances, alternate language is offered (e.g., [*night / day*]) or blanks have been left (e.g., [_____]) for the language to be customized to fit the needs of a specific community. In other instances, the options are mentioned in annotations (“comments”) following the legal provisions. In considering which options to choose, drafters should balance public health benefits against practical political considerations and other local conditions in the particular jurisdiction. One purpose of including a variety of options is to stimulate broad thinking about the types of provisions a community might wish to explore, even beyond those described in the model. NPLAN is interested in learning about novel provisions that communities are considering. Please contact us through our website: www.nplan.org.

Findings

An appendix entitled “Appendix A: Findings” accompanies this model. The Findings supply a variety of evidence-backed factual conclusions that support the need for adoption and implementation of a complete streets policy. Each jurisdiction should select those findings it views as most appropriate, and add findings related to specific community conditions or concerns.

A Statute of the State of [State] Providing for Complete Streets

The people of the State of [State] do enact as follows:

SECTION I. TITLE. This act shall be known and may be cited as the [State] Complete Streets Act of [*insert year*].

SECTION II. FINDINGS. The Legislature hereby finds and declares as follows:

SEE APPENDIX A: FINDINGS

A draft statute based on this model should include “findings” of fact (“whereas” clauses) that support the need for the state to enact the statute. The findings section is part of the statute, but it usually does not become codified in the state codes. The findings contain factual information supporting the need for the law – in this case, documenting the need for complete streets. A list of findings supporting this model statute appears in “Appendix A: Findings.” States may select findings from that list to insert here, along with additional findings addressing the need for the statute in the particular state.

SECTION III. [Article / Section] of the [*insert appropriate code*] is hereby amended to read as follows:

Sec. [____ (*1)]. PURPOSE. The purpose of this [article / chapter] is to enable the streets of [State] to provide safe, convenient, and comfortable routes for walking, bicycling, and public transportation that encourage increased use of these modes of transportation, enable convenient travel as part of daily activities, improve the public welfare by addressing a wide array of health and environmental problems, and meet the needs of all users of the streets, including children, older adults, and people with disabilities.

COMMENT: States may add additional reasons to this purpose clause as appropriate or desired.

Sec. [____ (*2)]. DEFINITIONS. The following words and phrases, whenever used in this [article / chapter], shall have the meanings defined in this section unless the context clearly requires otherwise:

COMMENT: States codes contain many definitions; states should ensure that the definitions from this statute appear in the correct section and that modifications occur as needed.

- (a) “Complete Streets Infrastructure” means design features that contribute to a safe, convenient, or comfortable travel experience for Users, including but not limited to features such as: sidewalks; shared use paths; bicycle lanes; automobile lanes; paved shoulders; street trees and landscaping; planting strips; curbs; accessible curb ramps;

bulb outs; crosswalks; refuge islands; pedestrian and traffic signals, including countdown and accessible signals; signage; street furniture; bicycle parking facilities; public transportation stops and facilities; transit priority signalization; traffic calming devices such as rotary circles, traffic bumps, and surface treatments such as paving blocks, textured asphalt, and concrete; narrow vehicle lanes; raised medians; and dedicated transit lanes [, as well as other features such as *insert other accommodations if desired*] [, and those features identified in *insert name of State's Pedestrian/Bicycle Master Plan if it exists*].

COMMENT: Although features such as street trees and landscaping have traditionally not been included in transportation infrastructure, these features are crucial for pedestrian comfort and safety. They are incorporated into this definition to ensure that Complete Streets Infrastructure addresses the needs of all Users.

(b) “Street” means any right of way, public or private, including arterials, connectors, alleys, ways, lanes, and roadways by any other designation, as well as bridges, tunnels, and any other portions of the transportation network.

COMMENT: This definition of “street” includes both public and private streets, and is broader than similar definitions contained in many state laws. The effect is to make many provisions of this statute applicable or potentially applicable to private streets.

(c) “Street Project” means the construction, reconstruction, retrofit, maintenance, alteration, or repair of any Street, and includes the planning, design, approval, and implementation processes[, except that “Street Project” does not include minor routine upkeep such as cleaning, sweeping, mowing, spot repair, or interim measures on detour routes] [and does not include projects with a total cost of less than \$[]].

COMMENT: In defining “Street Project,” a state can use the following clause to reference and include the terms and definitions that are used in the state in question to describe street projects (e.g. capital project, major maintenance project, annual maintenance projects): “as well as [*insert state project terms*].”

(d) “Users” mean individuals that use Streets, including pedestrians, bicyclists, motor vehicle drivers, public transportation riders and drivers, [*insert other significant state users if desired, e.g. drivers of agricultural vehicles, emergency vehicles, or freight*] and people of all ages and abilities, including children, youth, families, older adults, and individuals with disabilities.

Sec. [____ (*3)]. REQUIREMENT OF INFRASTRUCTURE ENSURING SAFE TRAVEL.

- (a) [State department of transportation] [, *insert other related agencies if appropriate*] [and , local and regional jurisdictions and agencies with responsibility for Streets] shall make Complete Streets practices a routine part of everyday operations, shall approach every transportation project and program as an opportunity to improve Streets and the transportation network for all Users, and shall work in coordination with other departments, agencies, and jurisdictions to achieve Complete Streets.
- (b) Every Street Project [receiving state funding] on public Streets shall incorporate Complete Streets Infrastructure sufficient to enable reasonably safe travel along and across the right of way for each category of Users; provided, however, that such infrastructure may be excluded, [following consultation with the relevant local jurisdictions and] upon written approval by [*insert senior manager, such as the head of the state department of transportation*], where documentation and data indicate that:

COMMENTS: This provision, which requires that street projects on new or existing streets create Complete Streets, is a fundamental component of a commitment to Complete Streets.

If a state includes the option “receiving state funding,” it limits the reach of this requirement to only those projects that are financed in whole or part by state funds. By omitting this phrase, this provision requires all projects to provide for safe travel for all users, even if they are purely local projects.

This clause provides crucial accountability in the exceptions process by requiring documentation, a transparent decision-making process, and written approval by a specified official. Because local interests are central to determining whether exceptions properly apply, the state would do well to consult closely with local jurisdictions in exercising these exceptions. Note that if the state applies this requirement to every project, it may wish to allow senior local officials to manage the exceptions process, in light of the large number of local projects.

- (1) Use by non-motorized Users is prohibited by law;
- (2) The cost would be excessively disproportionate to the need or probable future use over the long term;
- (3) There is an absence of current or future need; or

COMMENT: Data showing an absence of future need might include projections demonstrating low likelihood of pedestrian or bicycling activity in an area. Such projections should be based on demographic, school, employment, and public transportation route data, not on extrapolations from current low mode use.

- (4) Inclusion of such infrastructure would be unreasonable or inappropriate in light of the scope of the project.

COMMENTS: By including this fourth exception, a jurisdiction gains considerable flexibility, but at the cost of potentially implementing Complete Streets practices less thoroughly. Jurisdictions should consider this trade-off in determining whether to include this exception.

Other exceptions can also be included in this list, for example: “Significant adverse environmental impacts outweigh the positive effects of the infrastructure.”

- (c) Pavement resurfacing, restriping, or signalization operations projects [receiving state funding] on public Streets shall include Complete Streets Infrastructure if feasible within the scope of the project.

COMMENTS: This provision is intended to encourage new bicycle lanes and reductions in the number of vehicle lanes where feasible as part of the restriping of pavement lines and markings during resurfacing, and to encourage improvements for pedestrians, particularly people with disabilities and older adults, as part of signalization projects.

As in the previous provision, a state may narrow the reach of this provision by including the option “receiving state funding.”

- (d) As feasible, [State] shall incorporate, and encourage local and regional jurisdictions and agencies to incorporate, Complete Streets Infrastructure into existing public Streets to improve the safety and convenience of Users, construct and enhance the transportation network for each category of Users, and create employment.

COMMENT: This provision sets forth the jurisdiction’s desire and intent to retrofit existing streets to increase safety for all users, but the words “as feasible” leave the jurisdiction great flexibility to do only what it determines to be a priority.

- [(e) [State] shall expend [x]% of the funds received by the [state department of transportation] on Complete Streets Infrastructure for pedestrians, bicyclists, and public transportation riders of all ages and abilities; local and regional jurisdictions and agencies shall expend [x]% of the funds received from [the state department of transportation / state highway fund / other appropriate source of funding] on Complete Streets Infrastructure for pedestrians, bicyclists, and public transportation riders of all ages and abilities.]

COMMENTS: This optional provision enables a state to dedicate a determined portion of transportation funding to facilities dedicated to bicycles, pedestrians, and public transportation riders. A state does not *need* to set aside special funding in this manner, since extra funding is not required to achieve the primary goal of the statute, to ensure that all Users will be accommodated within the scope of each Street Project. However, if a state wishes to dedicate a funding stream for projects of this kind, a dedicated retrofit fund can fund additional projects and create a statewide pedestrian or bicycle network more quickly.

The State of Oregon set this number at 1%.

A state will want to provide additional specifications regarding this funding, such as whether to allow the funding to accrue, how to administer it, and so on. These may be inserted into this provision or may be developed as regulations.

- (f) All initial planning and design studies, health impact assessments, environmental reviews, and other project reviews for projects [within / requiring funding or approval by] [State] shall: (1) evaluate the effect of the proposed project on safe travel by all Users, and (2) identify measures to mitigate any adverse impacts on such travel that are identified.

COMMENT: This clause provides for public accountability and improved outcomes by enabling written evaluation of the effects of certain projects on safe travel as a routine consideration factoring into decision-making processes.

- (g) All local and regional jurisdictions and agencies shall [, within [2] years of the date of passage of this statute]: (1) review all pertinent plans, zoning and subdivision codes, laws, procedures, rules, regulations, guidelines, programs, templates, and design manuals, including [*insert name of State's comprehensive plan equivalent as well as all other key documents by name*] and identify revisions necessary to provide for the integration, accommodation, and balancing of the needs of all Users in all Street Projects; and (2) submit a report to the [state department of transportation] enumerating the proposed revisions and setting forth a timeline for their implementation.

COMMENTS: Through this provision, the state requires local and regional jurisdictions and agencies to revise plans and law to implement Complete Streets. States may add to or subtract from the list of items for review in order to reflect state-specific practices. If a state is concerned about requiring localities to take these steps without providing additional funding, it may: (1) require the pertinent revisions only when revisions are made to the documents in question; or (2) make state transportation funding contingent upon compliance with this section. Naturally, this provision may also be excluded if a state does not wish to apply this requirement.

By including the optional timeline and requiring a report, compliance will likely be more rapid and meaningful. States may wish to add additional language containing more specific requirements for localities or requiring additional reports on a regular basis regarding the implementation of Complete Streets in local communities.

Sec. [____ (*4)]. ADDITIONAL STEPS.

- (a) [State department of transportation] shall implement, administer, and enforce this [article / chapter]. [Agency] is hereby authorized to issue all rules and regulations consistent with this [article / chapter] and shall have all necessary powers to carry out the purpose of and enforce this [article / chapter].

COMMENT: This provision designates an agency or official to implement this statute and also bestows rulemaking and other powers on the agency. If existing law in a State provides such rulemaking authority, then this provision or the second sentence of the provision may be omitted.

- (b) [State department of transportation] shall do the following:

- (1) Address short-term and long-term steps and planning necessary to create a comprehensive and integrated transportation network serving the needs of all Users;
- (2) Propose revisions to state laws, procedures, rules, regulations, guidelines, programs, templates, and design manuals to integrate, accommodate, and balance the needs of all Users in all Street Projects.
- (3) Assess potential obstacles to implementing Complete Streets practices in [State], and work with other departments, agencies, and jurisdictions to remove barriers to Users' ability to travel via one or more modes of transportation, including restrictions on bicycle access to public transportation.

COMMENT: States should tailor this clause to direct the state department of transportation, or other agencies, to carry out additional specific implementation tasks as appropriate.

- (4) Establish a statewide integrated bicycle network with a uniform system of signage, with the goal of connecting existing and planned bicycle facilities and general destinations throughout [State];

- (5) Provide trainings in how to integrate, accommodate, and balance the needs of each category of Users for state and local planners, civil and traffic engineers, project managers, plan reviewers, inspectors, and other personnel responsible for the design and construction of Streets;

COMMENT: Such trainings may cover a range of topics: a basic introduction to the concept of Complete Streets, an exploration of advanced implementation questions, or an overview of how to apply new systems, policies, and requirements put in place to implement Complete Streets.

- (6) Collect data measuring how well the Streets of [State] are serving each category of Users;

COMMENTS: States should look at latent demand, existing levels of service for different modes of transport and users, collision statistics, bicycle and pedestrian injuries and fatalities, and so on.

A state may designate a different agency than the state department of transportation for the tasks in this section, if desirable.

- (7) Put into place performance standards with measurable benchmarks reflecting the ability of Users to travel in safety and comfort

COMMENT: Specific performance standards, with clear benchmarks and timeframes, greatly increase accountability and the ability to assess progress toward a goal. Communities that are just beginning to move toward Complete Streets may wish to establish limited benchmarks, whereas those seeking rapid and substantial impact will want to specify detailed performance standards. In establishing performance standards, states should look at areas such as transportation mode shift, miles of new bicycle lanes and sidewalks, percentage of streets with tree canopy and low design speeds, public participation, and so on.

- (c) [State department of transportation] shall report back to the [Adopting body] [annually / within one year of the date of passage of this statute] regarding: the steps taken to implement this statute; additional steps planned; and any desired actions that would need to be taken by [Adopting body] or other agencies or departments to implement the steps taken or planned.

SECTION IV. STATUTORY CONSTRUCTION & SEVERABILITY.

- (a) This Act shall be construed so as not to conflict with applicable federal laws, rules or regulations. Nothing in this Act authorizes any state agency to impose any duties or obligations in conflict with limitations on state authority established by federal or state law at the time such agency action is taken.

If a court or agency of competent jurisdiction holds invalid any portion of this Act or its application to any person or circumstances, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

COMMENT: This standard severability provision allows most of the statute to remain in effect even if a court deems part of the statute to be invalid.

- (b) In undertaking the enforcement of this Act, [State] is assuming only an undertaking to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation through which it might incur liability in monetary damages to any person who claims that a breach proximately caused injury.

COMMENT: This provision states that no new basis for tort liability is established by the enactment of this statute.

- (c) Nothing in this Act is intended to prevent local or regional jurisdictions from establishing additional or more rigorous requirements.

COMMENT: This provision provides that this statute does not preempt local or regional jurisdictions from establishing standards that are stricter than those in this statute.

- (d) This Act takes effect [immediately / *insert effective date*].