

02-O-0664

**AN ORDINANCE BY COUNCILMEMBERS DEBI STARNES & ANNE FAUVER
AS SUBSTITUTED BY CITY UTILITIES COMMITTEE**

TO AMEND THE CITY OF ATLANTA'S CODE OF ORDINANCES BY ESTABLISHING AND ADOPTING A NEW ARTICLE VIII OF CHAPTER 138 ENTITLED "BICYCLE RACKS WITHIN THE PUBLIC RIGHT-OF-WAY"; AND FOR OTHER PURPOSES.

WHEREAS, it is a stated goal of the City of Atlanta to expand pedestrian and bicycle facilities as a transportation alternative to the single occupancy vehicle mode of travel and to increase the pedestrian and bicycle linkages that support mass transit; and

WHEREAS, it is a stated goal of the City of Atlanta's urban design plan to create and support sidewalk oriented retail which will encourage access by pedestrians and bicycles; and

WHEREAS, it is desirable and the best interests of the City of Atlanta to enact a new set of Ordinances governing the placement of bicycle racks in the public right-of-way; and

WHEREAS, the regulation of the installation of bicycle racks in the public right-of-way will support and encourage the City of Atlanta's alternative mass transit goals and contribute to the general health, safety and welfare of the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS AS FOLLOWS:

SECTION 1. That Article VIII of Chapter 138 of the Code of Ordinances entitled "Bicycle Racks Within The Public Right-Of-Way" is established by this Ordinance.

SECTION 2. That the text for the new Article VIII of Chapter 138 of the Code of Ordinances entitled "Bicycle Racks Within The Public Right-Of-Way" set forth in Exhibit A attached, is adopted in its entirety.

Exhibit A

Article VIII. Bicycle Racks within the Public Right-of-Way

Sec. 138-280. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings set forth in this section:

- 1) "Bicycle Rack" means a metal rack intended for use by the public as a means to park and secure a bicycle placed in the public right-of-way, meeting the specifications set forth in this article.
- 2) "Bicycle Rack Permit" means a discretionary permit issued by the commissioner of public works pursuant to this article after compliance by the applicant with all requirements set forth in this article applicable to the permitting process. When issued, a Bicycle Rack Permit shall be deemed to include the terms and conditions contained in the application, this article and Governmental Requirements.
- 3) "Bicycle Rack Permittee" means the Person to which a Bicycle Rack Permit is issued.
- 4) "Governmental Requirements" means all applicable federal, state or local statutes, laws, ordinances, codes, rules, regulations, standards, executive orders, consent orders, orders and guidance from regulatory agencies, judicial decrees, permits, licenses or other governmental requirements of any kind, in effect at the time of the enactment of this article or which come into effect subsequent to its enactment, and any present or future amendments to those Governmental Requirements, which specifically relate to: [i] the business of the City of Atlanta; [ii] the business of the Bicycle Rack Permittee; [iii] bicycles, Bicycle Racks, public transportation, streets and encroachments in the public rights-of-way; [iv] public rights-of-way; [v] the actions of the Bicycle Rack Permittee under its Bicycle Rack Permit; [vi] the Bicycle Rack Permit; and [vii] any other matters relating to this article.
- 5) "Person" means any individual or entity, including business corporations, limited liability companies, partnerships, joint ventures, or similar Persons.
- 6) "Public Sidewalk" means that portion of the public right-of-way designed or ordinarily used for pedestrian travel and within which Bicycle Racks are to be installed.
- 7) "Public Street" means that portion of the public right-of-way designed and ordinarily used for vehicular traffic and includes all Public Streets owned or maintained by the City of Atlanta or the Georgia Department of Transportation or any other governmental Person.

Sec. 138-281. Enforcement, violations and penalties.

It shall be the duty of the commissioner of public works to enforce this article. Any Person violating any section of this article shall be deemed to have committed an offense and, upon conviction, shall be punished as provided in section 138-4 of the City of Atlanta's Code of Ordinances. Each day's continuance of a violation shall be considered a separate offense, even if the violation continues for a portion of a day before being corrected.

Sec. 138-282 Permit.

- 1) It shall be unlawful for any Person to install, place, operate, or maintain any Bicycle Rack in or on any part of the Public Sidewalk without first obtaining a current Bicycle Rack Permit from the commissioner of public works.
- 2) No fee shall be required for the issuance of a Bicycle Rack Permit.
- 3) Applications for all Bicycle Rack Permits must be submitted on a form provided by the commissioner of public works, which may be changed from time to time, at the commissioner's discretion, containing, at least, the following information:
 - a) The applicant's name, local address, telephone number and facsimile number at which any notices allowed by this article shall be deemed received when delivered in accordance with this article.
 - b) The total number and exact location of each proposed Bicycle Rack to be permitted. A list of the proposed Bicycle Rack locations and map pinpointing those locations must be attached to the application form.
 - c) An agreement of indemnification, pursuant to which the Bicycle Rack Permittee agrees to release and indemnify, defend and hold harmless the City of Atlanta, its officers, agents, employees, successors, assigns, and its authorized representatives, from and against any suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorney's fees, costs and expenses of whatsoever kind or nature, and in any manner directly or indirectly caused, occasioned or contributed to, in whole or in part, or claimed to be caused, occasioned or contributed to, in whole or in part, by reason of any act, omission, fault or negligence, whether active or passive, of the Bicycle Rack Permittee, or of anyone acting under its direction or control or on its behalf, in connection with or incidental to: [i] the Bicycle Rack Permit (and the application for it); [ii] the existence of any Bicycle Rack within the Public Sidewalk; [iii] the compliance or non-compliance with Governmental Requirements, this article or the terms of the Bicycle Rack Permit (and the application for it) by the Bicycle Rack Permittee; [iv] or any Bicycle Rack subject to the terms of the Bicycle Rack Permit or Governmental Requirements. The Bicycle Rack Permittee's release, indemnity and hold harmless obligations will apply even in the event of the fault

or negligence, whether active or passive, or strict liability of the parties released, indemnified or held harmless, to the fullest extent permitted by Governmental Requirements, and will not be limited by any insurance required to be provided by the Bicycle Rack Permittee under this article.

- d) A certification that the applicant has reviewed, understands and will comply with all requirements of this article.
 - e) An agreement by the applicant promptly to inform the commissioner of public works in writing of any changes in the applicant's name, address, telephone number and facsimile number.
 - f) An agreement by the applicant to provide insurance and performance/payment bonds if, subsequent to the issuance of the permit, determined by the commissioner of public works, in consultation with the City's division of risk management, to be necessary to ensure the performance of the applicant's indemnification and Bicycle Rack removal obligations under this article. If insurance or bonding is determined to be required of a Bicycle Rack Permittee, the commissioner of public works will notify the Bicycle Rack Permittee in writing and it shall have 15 days from the date of notice to comply; provided, however, that insurance and bonding shall not be an initial requirement of an application.
 - g) An agreement by the applicant to: [i] remove all or any Bicycle Racks set forth in any Bicycle Rack Permit issued by the city, as directed in writing by the commissioner of public works, in accordance with this article, within 30 days of the date of the removal notice, all at no cost to the city; and [ii] to restore the Public Sidewalk to the condition it was prior to installation of the applicable removed Bicycle Rack, all at no cost to the City, all at no cost to the city. The applicant's removal agreement shall also state that if the applicant fails to remove a Bicycle Rack noticed for removal by the commissioner of public works, in the time frame required under this article, the city may remove the Bicycle Rack and charge the applicant all costs associated with that removal. In such case, the city will also be allowed to retain title to the removed Bicycle Rack, which Bicycle Rack may be dealt with by the city in any manner it deems appropriate.
 - h) An agreement that any Bicycle Rack Permit granted pursuant to this article constitutes a license to install a Bicycle Rack in a Public Sidewalk, is not intended to create any property or other rights in the Bicycle Rack Permit or the Public Sidewalk and is revocable at will by the city.
- 4) Applications for all Bicycle Rack Permits shall be reviewed and, if in compliance with all requirements of this article, may be approved by the commissioner of public works. Only one Bicycle Rack Permit shall be required for the placement of any number of Bicycle Racks, provided that the application clearly states the number and location of the Bicycle Racks to be installed. Should the Bicycle Rack Permittee

desire to install additional Bicycle Racks subsequent to the issuance of a Bicycle Rack Permit, it shall be required to file a separate application.

- 5) A Bicycle Rack Permit shall expire two years from the date of its issuance. One hundred twenty days prior to the expiration date of a Bicycle Rack Permit, the Bicycle Rack Permittee must submit a renewal application on a form provided by the commissioner of public works, requesting the renewal of the Bicycle Rack Permit for an additional two years and updating any changed information relating to the application from the prior Bicycle Rack Permit period. Successive renewals of Bicycle Rack Permits may be made in this manner. Renewal applications shall be reviewed and, if in compliance with all requirements of this article, may be approved by the commissioner of public works.
- 6) The application for a Bicycle Rack Permit shall be executed by the applicant and, if a Bicycle Rack Permit is issued, shall constitute the binding agreement of the Bicycle Rack Permittee to comply with all of the terms of the application, the Bicycle Rack Permit, this article and all other Governmental Requirements.

Sec. 138-283. Projection onto Public Streets.

No Bicycle Rack may project onto, into or over any part of a Public Street or rest wholly, or in part, upon, along or over any portion of any Public Street.

Sec. 138-284. Dangerous condition or obstruction.

No Bicycle Rack may be installed in a location where it, in the reasonable opinion of the commissioner of public works, endangers the safety of Persons or property or when the site or location is used for public utility purposes, public transportation purposes or other governmental purposes, or when the Bicycle Rack interferes with or impedes the flow of pedestrian or vehicular traffic, including any legally parked or stopped vehicles, the ingress or egress of any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes or other objects permitted at or near the location.

Sec. 138-285. Identification.

Every Bicycle Rack installed pursuant to a Bicycle Rack Permit shall have affixed to it, in a place easily seen, the name, address, telephone number and facsimile number of the Bicycle Rack Permittee.

Sec. 138-286. Standards for installation and maintenance of Bicycle Racks in designated areas.

- 1) Bicycle Racks shall be installed and maintained, as set forth below:
 - a) The color of a Bicycle Rack shall be black or "CODA Green" (Pantone color 5467C). No logo, advertising, publicity or lettering shall be permitted on a Bicycle Rack, other than the identification information required by this article.

- b) A Bicycle Rack shall be an “Inverted U” type rack with capacity to secure two bicycles. A Bicycle Rack should be constructed of steel with an outer diameter of 2 3/8”, a height of 36”, and width of 30” or equivalent and shall be flange mounted with permanent mount spikes.
- c) A Bicycle Rack must be installed parallel to the nearest curb.
- d) A Bicycle Rack may not be located:
 - i) Within five feet from the nearest outer edge of any crosswalk;
 - ii) Within twenty feet from any fire hydrant, fire call box, or police call box;
 - iii) Where the overhead clearance is less than seven feet;
 - iv) Within five feet from any driveway;
 - v) Within thirty inches of any sign, parking meter, tree, streetlight, or utility pole or similar fixture;
 - vi) Within fifteen feet of any designated bus stop;
 - vii) In such a manner that impairs bus, taxicab, truck or passenger loading zones; or
 - viii) In a manner that blocks historic markers, benches, or other public improvements.
- 2) Bicycle Racks shall be placed within the street furniture zone as described by the pedestrian space plan (sheets 137 and 138 of the City of Atlanta’s official zoning map) no closer than 30 inches from the back of the nearest curb of the road and shall be positioned to provide for a minimum of seven feet of unobstructed sidewalk, so as not to impede reasonable pedestrian traffic on sidewalks. On-street Bicycle Racks shall not be permitted on sidewalks with a width of less than 10 feet.
- 3) When Bicycle Racks are installed adjacent to each other, a three-foot minimum aisle shall be provided between the Bicycle Racks.

Sec. 138-287. Maintenance.

Each Bicycle Rack shall be maintained in a state of good repair at all times.

Sec. 138-288. Revocation of Bicycle Rack Permit; license; no property or expectation rights created by granting Bicycle Rack Permit.

- 1) A Bicycle Rack Permit may be revoked, as to all or any Bicycle Rack locations set forth in it, and the Bicycle Rack Permittee considered in default of its obligations if it violates any of the terms of this article, Governmental Requirements, its application and the Bicycle Rack Permit, including, but not limited to, committing any of the following:

- a) Performing work related to a Bicycle Rack that fails to conform to this article and Governmental Requirements;
 - b) Abandoning any Bicycle Rack;
 - c) Failing to fulfill or comply with any of the terms of the Bicycle Rack Permit, the application, this article or Governmental Requirements;
 - d) Failing to file a renewal application in accordance with the terms of this article, upon which failure the Bicycle Rack Permit shall immediately terminate without further action on the part of the city.
 - e) If the Bicycle Rack Permittee:
 - i) Voluntarily consents to an order for relief by filing a petition for relief under the laws of the United States codified at Title 11 of the United States Code;
 - ii) Seeks, consents to or does not contest the appointment of a receiver, custodian or trustee for itself or for all or any part of its property;
 - iii) Files a petition seeking relief under the bankruptcy, arrangement, reorganization or other debtor relief laws of any state or other jurisdiction;
 - iv) Admits in writing that it is generally not paying its debts as those debts become due;
 - v) Gives notice to any governmental body of insolvency or pending insolvency, or suspends operations;
 - vi) Becomes insolvent as that term is defined under applicable fraudulent transfer or conveyance laws; or
 - vii) Makes an assignment for the benefit of creditors or takes any other similar action for the protection or benefit of creditors.
- 2) Further, the commissioner of public works may revoke a Bicycle Rack Permit, as to all or any Bicycle Rack locations set forth in it, if:
- a) the commissioner of public works determines that it is no longer in the best interests of the City; or
 - b) reasonable grounds for insecurity arise with respect to Bicycle Rack Permittee's performance under the Bicycle Rack Permit.

- 3) Each Bicycle Rack Permit granted pursuant to this article constitutes a license to install a Bicycle Rack in a Public Sidewalk, is not intended to create any property or other rights in the Bicycle Rack Permit or the Public Sidewalk and is revocable at will by the city.

Sec. 138-288. Removal of Bicycle Racks.

When notified by the commissioner of public works in writing, each Bicycle Rack Permittee must remove an affected Bicycle Rack from the Public Sidewalk and restore that Public Sidewalk in accordance with the Bicycle Rack Permit application requirements of this article.

Sec. 138-289. Use of Bicycle Racks; Removal of Bicycles.

Bicycles may not be parked at any particular Bicycle Rack for more than seventy-two hours. In the event the city determines that this provision has been violated, the city's police and public works departments shall have the authority to remove such bicycles.

RCS# 3881
7/15/02
3:43 PM

Atlanta City Council

Regular Session

02-O-0664

Est. New Code Article: "Bicycle Racks
Within City Right-of-Way"
FILE

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 0

NV Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	Y Martin	Y Norwood
Y Young	Y Shook	NV Maddox	Y Willis
Y Winslow	Y Muller	Y Boazman	NV Woolard

02-O-0664

02-0-0664

(Do Not Write Above This Line)

An Ordinance to Amend The City Of Atlanta Code of Ordinances By Establishing And Adopting A new Article VIII Of Chapter 138 Entitled "On-Street Bicycle Racks" And For Other Purposes

FILED BY
CITY COUNCIL

JUL 15 2002

02-0-0664

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 4/1/02

Referred To: City Utilities

Date Referred 7/1/02

Referred To: City Utilities

Date Referred

Referred To:

First Reading

Committee _____
 Date _____
 Chair _____
 Referred to _____

Committee
City Utilities

Date
April 9, 2002

Chair
[Signature]

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee
City Utilities

Date
7/9/02

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members
[Signature]

Refer To

Committee
City Utilities

Date
June 25, 2002

Chair
[Signature]

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members
[Signature]

Refer To

FINAL COUNCIL ACTION

2nd ^{7/1/02} _{11:30p} 1st & 2nd 3rd

Readings

Consent V Vote RC Vote

CERTIFIED

CERTIFIED
 JUL 15 2002
 ATLANTA CITY COUNCIL PRESIDENT
[Signature]
 Mayor W. B. Howard

CERTIFIED
 JUL 15 2002
 Municipal Clerk
[Signature]

MAYOR'S ACTION