

**AN ORDINANCE
BY COUNCILMEMBER ANNE FAUVER**

04-0-1363

**AS SUBSTITUTED #4 AND AMENDED
BY TRANSPORTATION COMMITTEE**

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, PART II GENERAL ORDINANCES, CHAPTER 138 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, ARTICLE 11, ENCROACHMENTS, BY CREATING A NEW DIVISION, DIVISION 7, SECTION 138-61; AUTHORIZING THE PLACEMENT OF DUMPSTERS IN THE RIGHT-OF-WAY UNDER PRESCRIBED CONDITIONS; SETTING FORTH REQUIREMENTS FOR INFORMATION AND REFLECTORS TO BE PLACED ON THE DUMPSTERS AND FOR OTHER PURPOSES.

WHEREAS, many communities are experiencing revitalization and a significant increase in renovation projects associated with a recent economic upturn; and

WHEREAS, the City of Atlanta's Code of Ordinances does not address the issue of post construction trash receptacles, commonly known as "drop off dumpsters" which are used to facilitate the disposal of debris commonly associated with construction and renovation and placed in the public right-of-way; and

WHEREAS, the placement of drop off dumpsters in the public right-of-way is causing concerns for residents because the dumpsters are not illuminated and cannot be seen at night until residents or vehicular traffic are extremely close to them; and

WHEREAS, the drop off dumpsters currently placed in the public right-of-way do not have any identification so that concerned citizens can contact the dumpster owners to let them know of their concern about potential hazard these non-illuminated drop off dumpsters pose; and

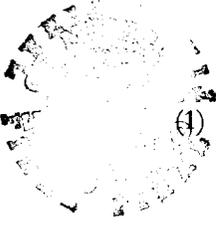
WHEREAS, the Council of the City of Atlanta may adopt reasonable regulations in the interest of public health, safety and welfare and reach no further than necessary to accomplish said objectives;

NOW THEREFORE THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS, as follows:

SECTION 1: That the Code of Ordinances of the City of Atlanta Part 11 - General Ordinances, Chapter 138 Streets, Sidewalks and Other Public Places, Article 11 Encroachments, is amended by adding a new Division 7, Subsection 138-61 as follows:

See. 138-61-Dumpsters in the Right-of-Way

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



- (1) "Dumpster" shall mean any container or storage box used for the storage, collection, or removal of construction debris, demolition debris, or other discarded material but shall not include a refuse compactor or grease container, and shall also not include the refuse containers.
- (2) "Applicant" shall mean the person who leases or otherwise causes placement (if a dumpster or container for temporary use at the location requested.
- (3) "Provider" shall mean the person who owns a dumpster.

(b) Permit required.

It shall be prohibited and it shall be unlawful for any person to place or maintain a dumpster on the public right-of-way unless such person shall first obtain a dumpster permit from the department of public works.

(c) Application.

An application for a dumpster permit shall be made to the commissioner of public works by the applicant. The application form shall require the applicant to provide the following information:

- (1) the name, address and telephone number of the applicant;
- (2) the number of dumpster(s) requested to occupy the permitted location;
- (3) the street address adjacent to the permitted location;
- (4) the intended use of the dumpster(s); and
- (5) the intended period of occupancy of the dumpster(s).

(d) Duration and Conditions of Permit

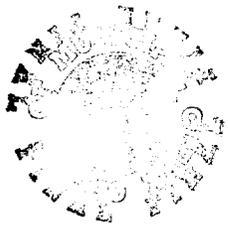
(1) Duration of Permit

Duration of a dumpster permit shall not be more than six months. An applicant holding a permit and requesting an extension of time shall apply for a new permit according to the provisions of this code section.

(2) Demonstrated need as condition of permit

No dumpster permit shall be issued unless the applicant shall first demonstrate to the commissioner of public works that the dumpster(s) cannot be accommodated on private property.

(3) Indemnification Insurance as condition of permit



No dumpster pen-nit shall be issued until the applicant for such permit shall first have presented to the commissioner of public works or his designee evidence of insurance issued to indemnify and hold harmless the city, its agents, officers and employees from all claims arising out of the any injury to persons or damage to property resulting from the placement, presence, use, maintenance or removal of the permitted dumpster on, irk, over or within the public right-of-way. Such insurance shall be furnished by an insurer satisfactory to the City, the amount of the policy being determined by the city's risk manager to be adequate to protect the interests the public and shall name the City of Atlanta, its officers, employees and agents as additional insured.. The insurance shall be maintained in effect at all times that the dumpster remains on the public right-of-way.

(4) Reimbursement of damages to city.

The granting of permission to place or maintain a dumpster on, or in, the public right-of-way shall be contingent upon the agreement of the-applicant to repair any damage. to the public way resulting from the placement, maintenance, use or removal of the dumpster during the times the dumpster remains on the public right-of-way.

(5) Compliance with this chapter.

The granting of permission to place or maintain a dumpster on, or in, the public right-of-way shall be contingent upon the agreement of the applicant to comply with all the terms of this chapter and to comply with all other ordinances and regulations of the city.

(e) Permit fee.

The applicant for a permit issued by the department of public works for dumpster placement shall, upon receipt of such permit, pay to the city a permit fee as provided in this section.

(1) There shall be a \$20 fixed fee for all permits issued as provided in this section, unless otherwise provided herein.

(2) A permit cost for use of up to 100 linear feet of any portion of the adjacent curb lane shall be \$10 per calendar day for the duration of the pen-nit.

(3) A permit cost for use of 101 to 200 linear feet of any portion of the adjacent curb lane shall be S 15 per calendar day for the duration of the permit.

(4) A permit cost for use of 201 to 300 linear feet of any portion of the adjacent curb lane shall be \$20 per calendar day for the duration of the permit.

(5) A permit cost for use of over 300 linear feet of any portion of the adjacent curb lane shall be \$25 per calendar day for the duration of the permit.

(6) An additional fee to recover the cost of the blocked parking meters, or to recover the cost of the issuance of emergency no parking signs or other materials related 'to traffic control measures may be added to the cost of the permit, where applicable.

(f) Dumpster identification.



The commissioner of public works is authorized to establish and publish a list of conditions and requirements for the placement, maintenance, use or removal of any dumpster in the public way in a manner not inconsistent with this chapter. Said conditions shall contain, but not be limited to, the requirement that the provider clearly identify all dumpsters in the public right-of-way in the following manner:

(1) clear identification of the name and telephone number of the provider, visibly displayed in a conspicuous manner, according to standards established and published by the commissioner of the department of public works.

(2) the requirement to affix and maintain, on each of the four comers of the dumpster high-intensity retro-reflective sheeting, or other retro-reflective or prismatic material or substance according to standards established and published by the commissioner of the department of public works.

(g) Location.

No dumpster shall be permitted for a location that is:

(1) Within 40 feet of any bus stop.

(2) Within 20 feet of any parking space designated for persons with disabilities.

(3) Within 20 feet of any pedestrian crosswalk.

(4) Within 30 feet of any intersection.

(5) Within 15 feet of any fire hydrant.

(6) On any sidewalk, unless the applicant demonstrates to the satisfaction of the commissioner of public works or his designee that an alternative location is not feasible and that placement of the dumpster(s) on such sidewalk would not create a safety hazard, disrupt pedestrian or vehicular traffic, or damage public or private property.

(h) Placement, appearance and maintenance of dumpster.

1) It shall be the responsibility of the applicant to place the dumpster immediately adjacent to the property identified by the street address stated on the permit application.

2) It shall be the responsibility of the provider when transporting or otherwise moving a dumpster, to ensure that no portion of the load is falling, shifting, blowing, dropping or in any way escaping from the dumpster. The provider shall use a tarpaulin or other appropriate cover to secure the top of a dumpster while in transit.

(i) Violations



- (1) Violations of the conditions stated in the permit required by this section, or failure to obtain or maintain a valid permit shall constitute an offense and shall be punishable as provided under in the penalty section of this chapter.
- (2) Any dumpster in the public right of way not bearing its identification information or reflective material as required by subsection (f) of this section, shall be in violation of the requirements of this section; and
- (3) Any dumpster not located immediately adjacent to the street address specified in the permit shall be in violation of this section; and
- (4) Each day that a violation exists shall constitute a separate offense.

(j) **Enforcement and Penalties**

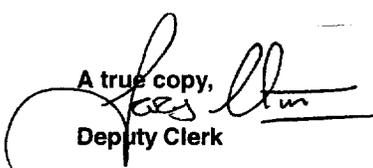
Upon a determination that a person is in violation of this chapter, the commissioner of public works or his designee shall give notice or issue a citation that indicates the person is in violation of a section of this chapter. Should the violation continue after the person receives notice, the commissioner or his designee may cite the violator to appear before the judge of the municipal court for a hearing on the charge of violation of this chapter. Upon a finding that a section of this chapter has been violated, the violator shall be subject to one or more of the following penalties:

- (1) The revocation or suspension of a permit issued in accordance with this section.
- (2) A fine not exceeding \$ 1,000.00 a day for a violation of this section.
- (3) Imprisonment for a term not exceeding six months.

(k) **Effective Date**

This ordinance shall be effective starting on September 1, 2005

SECTION 2: That the remaining subsections of Article 11, subsections 138-62 through 138-64, continue to be reserved.

A true copy,

Deputy Clerk

ADOPTED as amended by the Council
APPROVED by the Mayor

JUL 18, 2005
JUL 26, 2005

RCS# 6850
7/18/05
4:53 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PG(S) 6-19

ADOPT

YEAS: 15
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 0

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

CONSENT I

7/05/05

ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 05-O-0663 2. 05-O-0666 3. 05-R-0900 4. 05-O-0901 5. 05-O-0902 6. 05-O-1294 7. 04-O-1363 8. 05-O-1129 9. 05-O-1131 10. 05-O-1132 11. 05-O-1133 12. 05-O-1134 13. 05-O-1135 14. 04-O-1973 15. 05-O-1126 16. 05-O-1128 17. 05-O-1296 18. 05-O-1300 19. 05-R-1140 20. 05-R-1320 21. 05-R-1215 22. 05-R-1229 23. 05-R-1254 24. 05-R-1217 25. 05-R-1218 26. 05-R-1219 27. 05-R-1251 28. 05-R-1223 29. 05-R-1224 30. 05-R-1225	31. 05-R-1226 32. 05-R-1227 33. 05-R-1228 34. 05-R-1302 35. 05-R-1303 36. 05-R-1304 37. 05-R-1318 38. 05-R-1220 39. 05-R-1250 40. 05-R-1252 41. 05-R-1295 42. 05-R-1255 43. 05-R-1256 44. 05-R-1257 45. 05-R-1258 46. 05-R-1259 47. 05-R-1260 48. 05-R-1261 49. 05-R-1262 50. 05-R-1263 51. 05-R-1264	52. 05-R-1265 53. 05-R-1266 54. 05-R-1267 55. 05-R-1268 56. 05-R-1269 57. 05-R-1270 58. 05-R-1271 59. 05-R-1272 60. 05-R-1273 61. 05-R-1274 62. 05-R-1275 63. 05-R-1276 64. 05-R-1277 65. 05-R-1278 66. 05-R-1279 67. 05-R-1280 68. 05-R-1281 69. 05-R-1283 70. 05-R-1284 71. 05-R-1285

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040-1363

AN ORDINANCE BY
 COUNCILMEMBER ANNE FAUVER

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, PART II - GENERAL ORDINANCES, CHAPTER 138 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, ARTICLE IV, IMPROVEMENTS WITHIN THE RIGHT-OF-WAY, DIVISION 2 STREETS BY ADDING SUBSECTIONS 138-86, 138-87, AND 138-88 REGARDING BLOCKING OR CLOSING OF PUBLIC STREETS AND SIDEWALKS; AUTHORIZING THE PLACEMENT OF DUMPSTERS IN THE RIGHT-OF-WAY UNDER PRESCRIBED CONDITIONS; SETTING FORTH REQUIREMENTS FOR INFORMATION AND REFLECTORS TO BE PLACED ON THE DUMPSTERS; CODIFYING FEES CHARGED FOR PERMITS WHICH ALLOW BLOCKING OR CLOSING OF PUBLIC STREETS; AND FOR OTHER PURPOSES;
SUBSTITUTE AS AMENDED

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

Date Referred 7/19/04 C.U.

Referred To: _____

Date Referred 8/16/2004

Referred To: Trans

Date Referred _____

Referred To: _____

Committee _____
 Date _____
 Chair _____
 Referred To _____

Committee TRANS
 Date 7/28/04
 Chair Ann Fauver

Fav. Adv, Hold (see rev. side) _____

Other Whitely

Members _____

Ann Fauver
C. T. Whitely
Blair Muller

Refer To _____

Committee TRANS
 Date 7/28/04
 Chair _____

Fav. Adv, Hold (see rev. side) _____

Other Whitely

Members _____

Refer To _____

Committee TRANS
 Date 9/1/04
 Chair _____

Fav. Adv, Hold (see rev. side) _____

Other _____

Members _____

ADOPTED BY

JUL 18 2005

COUNCIL

Refer To _____

FINAL COUNCIL ACTION
 2nd 1st & 2nd 3rd
 Consent V Vote RC Vote

CERTIFIED

JUL 18 2005

CERTIFIED

Ann Fauver
 MUNICIPAL CLERK

MAYOR'S ACTION

Ann Fauver
 MAYOR