

11-0-0898

(Do Not Write Above This Line)

AN ORDINANCE BY
CITY UTILITIES COMMITTEE

AN ORDINANCE AUTHORIZING THE
MAYOR, ON BEHALF OF THE
DEPARTMENT OF PUBLIC WORKS, TO
ENTER INTO AN ENCROACHMENT
AGREEMENT FOR NON-CONFORMING
USES WITH THE WILLIAM OLIVER
CONDOMINIUM ASSOCIATION, INC.,
OWNER OF REAL PROPERTY
LOCATED AT 32 PEACHTREE STREET,
N.W., FOR THE PURPOSE OF
PERMITTING AN EXISTING BASEMENT
WHICH PRESENTLY EXTENDS INTO
THE PUBLIC RIGHT-OF-WAY; TO
WAIVE THE APPLICATION FEE AND
YEARLY INSPECTION FEE; AND FOR
OTHER PURPOSES. ADOPTED BY

JUL 05 2011

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

Date Referred

6/20/2011

Referred To:

City Utilities Committee

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee

City Utilities

Date

June 14 2011

Chair

Walter Anderson

Referred To

CAC

City Utilities

Committee

Date

June 28 2011

Chair

Walter Anderson

Action

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

Members

Anderson

Godrean

Hill

Refer To

Committee

Date

Chair

Action

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

Members

Refer To

Committee

Date

Chair

Action

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

Members

Refer To

Committee

Date

Chair

Action

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

Members

Refer To

FINAL COUNCIL ACTION

- 2nd
- 1st & 2nd
- 3rd
- Readings
- Consent
- V Vote
- RC Vote

CERTIFIED

JUL 05 2011

ATLANTA CITY COUNCIL PRESIDENT

Walter Anderson

CERTIFIED

JUL 05 2011

Rhonda Daughin Johnson
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

JUL 14

WITHOUT SIGNATURE
BY OPERATION OF LAW



**AN ORDINANCE BY
CITY UTILITIES COMMITTEE**

11-0-0898

AN ORDINANCE AUTHORIZING THE MAYOR, ON BEHALF OF THE DEPARTMENT OF PUBLIC WORKS, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH THE WILLIAM OLIVER CONDOMINIUM ASSOCIATION, INC., OWNER OF REAL PROPERTY LOCATED AT 32 PEACHTREE STREET, N.W., FOR THE PURPOSE OF PERMITTING AN EXISTING BASEMENT WHICH PRESENTLY EXTENDS INTO THE PUBLIC RIGHT-OF-WAY; TO WAIVE THE APPLICATION FEE AND YEARLY INSPECTION FEE; AND FOR OTHER PURPOSES.

WHEREAS, the William Oliver Condominium Association, Inc. (“William Oliver”) owns real property located at 32 Peachtree Street, N.W., in Atlanta, Georgia (“Property”); and

WHEREAS, the property currently has an existing basement which extends into the public right-of-way approximately One Hundred (100) feet in length and Twelve (12) feet in depth; and

WHEREAS, the City of Atlanta’s (“City”) Code of Ordinances, at Sections 138-20, 138-22 and 138-24, require that an Encroachment Agreement be entered into between the City and William Oliver for authorization to allow the basement to remain in the public right-of-way and for authorization for William Oliver to continue to maintain the existing basement in the public right-of-way; and

WHEREAS, William Oliver has been exempted from paying the application and yearly inspection fees as contained in Section 138-20(a) and Appendix B of the City Code of Ordinances; and

WHEREAS, the Commissioner of the Department of Public Works has reviewed the plans for the right-of-way encroachment and has determined that the existing basement will not adversely impact the ability of the affected right-of-way to handle pedestrian traffic or otherwise to perform its intended public function; and

WHEREAS, William Oliver desires to maintain the existing basement; and

WHEREAS, William Oliver has agreed to conform to the conditions set out in the City Code of Ordinances at Sections 138-20, 138-22 and 138-24.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1: That the Mayor is authorized, on behalf of the Department of Public Works, to enter into an Encroachment Agreement for Non-Conforming Uses, as outlined in Section 138, Article II, of the City’s Code of Ordinances with the William Oliver Condominium Association, Inc., for the purpose of granting to William Oliver the right to continue to use and the obligation to maintain a basement in the public right-of-way located at 32 Peachtree Street, N.W., with the



encroachment being located on Peachtree Street, N.W., between Walton Street, N.W. and Mablett Street, N.W., in Atlanta, Georgia as depicted in Exhibit "A" attached hereto, in a form and pursuant to the conditions determined by the Commissioner of the Department of Public Works and the City Attorney, to be desirable and in the best interests of the City of Atlanta for this transaction.

SECTION 2: That the plans and specifications for said basement shall be submitted for the review and approval of the Commissioner of the Department of Public Works.

SECTION 3: That William Oliver is exempted from paying the application and yearly inspection fees as contained in Section 138-20(a) and Appendix B of the City Code of Ordinances, and said fee requirements are hereby waived.

SECTION 4: That William Oliver shall indemnify the City for any damages to persons or properties resulting from the maintenance of said basement.

SECTION 5: That William Oliver shall comply with the conditions set out at Sections 138-120, 138-22 and 138-24 of the City's Code of Ordinances.

SECTION 6: That that the City Attorney is directed to prepare an Encroachment Agreement, acceptable as to form, for execution by the Mayor and William Oliver.

SECTION 7: That the Agreement shall not become binding upon the City, and the City shall incur neither obligation nor liability thereunder until the Agreement has been approved as to form by the City Attorney, executed by the Mayor, attested to by the Municipal Clerk and delivered to the William Oliver Condominium Association, Inc.

A true copy,

Deputy Clerk

ADOPTED by the Atlanta City Council July 05, 2011
RETURNED WITHOUT SIGNATURE OF THE MAYOR
APPROVED as per City Charter Section 2-403 July 14, 2011

