



DOCKET ITEM #11

***Text Amendment #2009-0002***

***Outdoor Display of Rental Bicycles***

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<b>Issue:</b> Consideration of an amendment to the zoning ordinance to allow outdoor display of rental bicycles.	Planning Commission Hearing:	June 2, 2009
	City Council Hearing:	June 13, 2009
<b>Description:</b> An amendment to add Section 7-2400 to permit rental bicycles to be displayed outside a business, and to allow the display to be located in the right of way, subject to an approved outdoor display plan.		
<b>Staff:</b> Faroll Hamer, Director, Planning and Zoning		

**PLANNING COMMISSION ACTION:**

Staff is recommending that the Zoning Ordinance be amended to permit the outdoor display of bicycles. The attached new language to both the zoning ordinance and to the city code will allow this small change in how the City promotes bicycle transportation and permit what is prohibited now.

## **I. BACKGROUND**

### ***Existing prohibition of outdoor display.***

As a general rule, the typical retail store in Alexandria is not permitted to display goods outside a building. The Zoning Ordinance now includes as a “Use Limitation” which prohibits outdoor display, except under very limited circumstances. See section 4-107 (A) as an example and similar language is included in all of the nonresidential zones. Under those zoning provisions, only occasional outdoor sales, such as seasonal Christmas tree sales are permitted. Even for the occasional or seasonal sales, a permit is required and the display may not be located on the public right of way, such as the sidewalk.

When the Mount Vernon Avenue Overlay Zone was adopted, the issue of outdoor display was addressed by permitting it with an administrative permit which limits the display to occurring four times a year. The more recently adopted Small Business Administrative SUP program continues the outdoor display previously permitted for Mount Vernon Avenue, but only subject to the strictures of the administrative SUP process.

## **II. PROPOSAL**

### ***Proposed amendment to allow outdoor display for rental bicycles.***

Under the text amendment proposed here, there will be one use in the City that is allowed to display products outdoors under less restrictive circumstances: bicycles for rent. Under the terms of the proposed section 7-2400, a rental bicycle business may seek an outdoor display permit for the area immediately adjacent to the building from which it operates. It will be the Director of Planning and Zoning who reviews the application and the proposed location of the outdoor display, including the size, the number of bicycles, and the circumstances, and determines whether the display will be appropriate at the chosen location. For example, the Director will review the plan to ensure that there is adequate room for the display without obstructing pedestrian access along a sidewalk.

In addition to the zoning ordinance, staff also proposes to amend the City Code to permit the bicycle display to be located on public right of way. Under section 5-2-29 of the City Code, certain features, such as stoops, steps, benches, and canopies are allowed to encroach into the city right of way, subject to several requirements, such as the provision of liability insurance and the City’s right to require the removal of the encroachment from its property. The proposed amendment would allow bicycles offered for rent to be included in the list of permitted encroachments. In this case, the outdoor display would have to be approved and retained as consistent with the requirements of section 7-2400, the proposed new zoning provision for outdoor display.

***Staff Analysis***

The very limited, small change to the zoning ordinance proposed here supports the City's efforts with regard to alternative transportation. In the spirit of Bike to Work Day (May 15, 2009) and the City's bronze designation under the League of American Bicyclists' Bicycle Friendly Community program, allowing the rental of bikes from outside a building should encourage bicycle use.

The City now has five bicycle stores located throughout the City:

- Big Wheels Bikes, 2 Prince Street
- Wheel Nuts, 302 Montgomery Street
- Bike and Roll, 1 Wales Alley
- Spokes, 1545 North Quaker Lane
- Bicycle Pro Shop, 3240 Duke Street

In addition, the proposed new rules will also apply to larger stores such as Target or Sears. While not all of them are now in the bicycle rental business, some are. In addition, the City hopes that there will be more bike rental businesses in the future.

Although the zoning change could have been drafted to apply to more bicycle businesses, such as including bicycle sales as well as rental, staff fears that such a change would lead to pressure for outdoor display of all goods, including furniture, rugs, appliances and other products that would be clearly inappropriate. It has long been the policy of the City not to allow such activity, in order to avoid clutter of sidewalks and interference with appropriate streetscape design. Therefore, staff has purposely carved out a very limited set of circumstances that will be appropriate – rental bicycles – under the new provisions.

Staff has met with the owners and/or managers of the City's existing bicycle stores to explain the new program and received their input on the proposed text amendment.

**III. STAFF RECOMMENDATION**

Staff recommends that the Planning Commission recommend approval of the text amendment.

**STAFF:**

Faroll Hamer, Director, Planning and Zoning  
Stephen Milone, Division Chief, Land Use Services, Planning and Zoning  
Yon Lambert, Pedestrian/Bicycle Coordinator, Transportation and Environmental Services

**ALEXANDRIA ZONING ORDINANCE/Article VII Supplemental Regulations**

Sec. 7-2400 Outdoor Display of Rental Bicycles. Notwithstanding any regulation in this ordinance to the contrary, the outdoor display of bicycles for rent is permitted within the City to the following extent, and pursuant to the following guidelines:

(a) A business which rents bicycles may display those bicycles directly outside the building in which its business is located if a permit by the Director is approved subject to this section 7-2400.

(b) An application under this section for outdoor display of bicycles shall be accompanied by a plan showing the proposed display and, at a minimum, the following:

- (1) the location of the display;
- (2) the arrangement of bicycles within the display;
- (3) the number of bicycles proposed to be displayed;
- (4) any barriers proposed or required to surround the display area;
- (5) any additional features proposed to be part of the display.

(c) The display must, at a minimum, comply with the following:

- (1) The display must be consistent with this section 7-2400 and with the plan approved pursuant to section 7-2400 (b), including any conditions that are made part of the approval.
- (2) All bicycles must be maintained in an orderly arrangement;
- (3) All bicycles must be retained within the area permitted for the display, which may not include a flower or tree bed, the area within two feet of the curb where vehicle parking is permitted, or the area adjacent to the display where a clear, safe and adequate pedestrian passageway must be maintained.
- (4) The bicycle display may not block a doorway or fire hydrant.
- (5) No signs are permitted as part of the display except as permitted on the building by the zoning ordinance for the business.
- (6) All improvements used in an outdoor display area on the public right of way must be readily removable without damage to the surface of the right of way.
- (7) Within a historic district, the design of the area shall comply with any Board of Architectural Review approved design guidelines for such displays.

(c) The rental of bicycles is permitted from the display area.

(d) The display may be located on the public right of way, if permitted in the approved plan and subject to the requirements for encroachments under section 5-2-29 of the City Code.

(e) Bicycle means a device propelled solely by human power, upon which a person may ride either on or astride a regular seat attached thereto, having two or more wheels in tandem, including children's bicycles, except a toy vehicle intended for use by young children.

## ALEXANDRIA CITY CODE

### **Sec. 5-2-29 Street encroachments.**

Any encroachment into a public street, alley, sidewalk or other right-of-way may be authorized only by a special ordinance adopted by city council, unless the encroachment is authorized pursuant to one of the following exceptions or is otherwise authorized by this code or the City of Alexandria Zoning Ordinance:

(a) **Steps.** Steps not more than 12 feet in length, including the required landings, may project beyond the street lot line up to five feet on streets with a right-of-way width of 100 feet or more, up to four feet on streets with a right-of-way width between 66 and 100 feet, up to three feet on streets with a right-of-way width between 50 and 66 feet and, notwithstanding the above, up to 20 inches on Union Street and on King Street between the Potomac River and the R.F.&P. railroad right-of-way. The term "steps" in this subsection includes ramps and similar structures necessary to provide access to the handicapped.

(b) **Architectural decorations.** Belt courses, lintels, sills, architraves, pediments and similar architectural decorations may project up to four inches beyond the street lot line when less than 10 feet above the curb level, and up to 10 inches beyond the street lot line when 10 feet or more above the curb level.

(c) **Signs.** A sign may be erected or displayed flat against a building wall or at an angle thereto, so long as the sign does not project more than four feet from the building wall or within one foot of an established curb line and the bottom of the sign is at least eight feet above a sidewalk or parking area and at least 14.5 feet above an alley.

(d) **Canopies, awnings and marquees.** Canopies, awnings and marquees suspended from a building or structure with no ground supports, having a clearance of at least eight feet above a sidewalk, extending no more than four feet beyond the front property line, and extending to no more than one foot from the established curb line, may be erected.

(e) **Nonpermanent planters.** Planters which are nonpermanent may be located in a right-of-way subject to the following:

(1) A permanent planter is one which is attached in any permanent manner to a public right-of-way or to a building, building appurtenance or any other structure, or which rests on a foundation or substructure other than a sidewalk. A permanent planter requires a building permit and an encroachment ordinance. Above-grade permanent planters located in an historic district also require approval by the board of architectural review.

(2) A nonpermanent planter is a portable container that is light enough to be transported by two people when empty of soil and plants.

(3) A nonpermanent planter may not project into a public right-of-way more than steps would be allowed to project under subsection (a) above and may not exceed 30 inches in height. There is no limit to the number of planters permitted as long as the conditions of this subsection (e) are complied with and the planters are maintained in good condition.

(4) A nonpermanent planter must be located so as to maintain a path for public travel at least five feet in width at all points, along any adjacent sidewalk.

(5) A permit for a nonpermanent planter must be obtained from the department of transportation and environmental services. The permit application shall include the address of the planter, adequate location drawings, and a sketch, photo or dimensions of the planter. Visual inspection by the director of transportation and environmental services or his designee may be substituted for drawings if the location and description of the planter are recorded on the permit application.

After a permit has been granted, it may be revoked and the planter removed from the right-of-way by the director or his designee whenever the applicant fails to comply with any permit conditions. A permit application will be reviewed to determine compliance with the following:

- a. The location of the planter shall not unduly obstruct the public right-of-way.
- b. The planter shall be of such design and construction, and the contents shall be of such nature, so as not to constitute a nuisance or public hazard.
- c. The planter shall be of a design, material and color which are generally recognized as intended for and suitable for the display of plant materials on the public right-of-way in an urban environment and, if located in an historic district, are compatible with the streetscape in the district and are consistent with the applicable design guidelines adopted by the board of architectural review.
- d. The owner of the planter shall agree to move the planter whenever the city requires access to the planter location.

**(f) Benches.** Benches and similar street furniture may be placed in a public right-of-way, subject to the following:

- (1) The bench or street furniture shall be located immediately adjacent to the closest building wall, shall touch the wall along the length of the bench or street furniture, and shall not project from the wall more than 30 inches.
- (2) The bench or street furniture shall not be used as part of a business for advertising, or for making sales or providing services to customers, and shall be available for use by the general public.
- (3) The director of transportation and environmental services or his designee shall review any bench or street furniture proposed for a right-of-way and its location, and approve it if he finds that it will not interfere with pedestrian access and safety, will not be an attractive nuisance and will promote the health, safety and welfare of the city.
- (4) The director of planning and zoning or his designee shall review any bench or street furniture proposed for a right-of-way and shall approve it if he finds that its design is compatible with the character of the surrounding area.

**(g) Rental Bicycles.** Bicycles offered for rent may be displayed and rented from areas of right of way pursuant to Section 7-2400 of the Zoning Ordinance and this section 5-2-29.

**(h) Encroachment requirements.** In addition to any other restrictions or requirements imposed by this code or the City of Alexandria Zoning Ordinance, the owner of any sign, canopy, awning or marquee, nonpermanent planter, bench, bicycle display or similar street furniture that encroaches into a public right-of-way pursuant to this section shall also comply with the following:

**(1) Liability insurance.** The owner shall obtain and maintain a policy of general liability insurance in the amount of \$1,000,000 which will indemnify the owner (and all successors in interest), and the city as an additional named insured, against all claims, demands, suits and related costs, including attorneys' fees, arising from any bodily injury or property damage which may occur as a result of the encroachment.

**(2) Removal of encroachment.** The owner or any successor in interest shall remove the encroachment if the city determines that the encroachment interferes with public access or is otherwise inconsistent with the public welfare. In such case, the city shall provide the owner or successor in interest with written notice of the need to remove the encroachment at least 10 days

prior to the date on which the removal must be completed. If the owner or successor in interest cannot be found, or fails to remove the encroachment within the time specified, the city shall have the right to remove the encroachment, at the expense of the owner or successor, and shall not be liable for any loss or damage to the encroaching structure that may occur as a result of the removal. (Ord. No. 3864, 5/18/96, Sec. 1; Ord. No. 3995, 5/16/98, Sec. 1)

**Sec. 5-2-19 Sale of articles of commerce from vehicles prohibited or limited while parking on city streets.**

It shall be unlawful for any person to offer for sale or sell any goods, wares, merchandise, foodstuffs or similar items from a vehicle or trailer that is parked, placed or stopped on a city street alongside of or next to a parking meter. It shall also be unlawful for any person to offer for sale or sell any goods, wares, merchandise, foodstuffs or similar items from a vehicle or trailer that has been parked, placed or stopped for longer than 20 minutes in any one place on a city street that does not contain parking meters. Notwithstanding this prohibition, a display of bicycles offered for rent from the public right of way pursuant to section 7-2400 of the Zoning Ordinance and section 5-2-29(g) is permitted. (Code 1963, Sec. 33-20; Ord. No. 3368, 4/15/89, Sec. 1)

**Sec. 5-2-16 Placing merchandise on or otherwise obstructing sidewalks and other public rights-of-way.**

(a) No person shall place any goods, wares, merchandise, foodstuffs or similar items on, or in any way obstruct, any street, sidewalk, walkway of the city or occupy or use any of such sidewalks or walkways or other public right-of-way or use any such public right-of-way for the display or sale of any goods, wares, merchandise, foodstuffs or similar items, except either pursuant to a permit issued in accordance with section 7-2400 of the zoning ordinance and section 5-2-29(g) 7-6-44(1) of this code or when receiving or delivering such items, in which case the items may remain on the public right-of-way only so long as is reasonably necessary for the delivery of same. (Code 1963, Sec. 33-17, as amended by Ord. No. 2545, 2/10/81, Sec. 1; Ord. No. 2609, 7/8/81, Sec. 1; Ord. No. 3368, 4/15/89, Sec. 1)