THE CITY OF ASHEVILLE

Staff Report

Council Meeting Date: June 27, 2023 (Introduction); July 25, 2023 (Adoption)

Subject: Amendment to Ordinance Prohibiting Storing Private Property on City Property

Staff Resource(s): Ken Putnam, PE, Transportation Department Director
Jade Dundas, Capital Projects Director

Action Requested: Adoption of an ordinance amending City Code Sec. 12-53 to prohibit the storage of bicycles, carts, strollers, or other means of personal transportation on City property for longer than 168 hours (7 days).

Background:

- City Code, Sec. 12-53, currently prohibits leaving or allowing to remain unattended any equipment, packages, bags, or other personal belongings on City property, and any such property is subject to removal.
- The ordinance contains an exception that allows persons to leave or allow to remain unattended any bicycles, carts, strollers, or other means of personal transportation, so long as they are secured in such a way as to not obstruct streets or sidewalks, and do not interfere with the use of City property.
- This exception was likely intended to allow persons to temporarily store bicycles or other means of transportation, however, it has led to situations where bikes have been abandoned and/or left affixed to bike racks for extended periods of time.
- The current ordinance limits the City's ability to address these situations in order to ensure that others are able to utilize public bike racks, and minimize the nuisance of abandoned property at these locations.
- This amendment would still allow for the temporary use envisioned by the ordinance, but would prohibit leaving any bike or other means of personal transportation on City property for longer than 168 hours (7 days).
- Notice will be provided via signage affixed to heavily used City bicycle racks. Those signs will include contact information to learn where removed property may be reacquired.
- Staff has determined that 65 bicycle racks and 4 bicycle corrals are in place in downtown Asheville. Initially, signs would be installed at the bicycle corrals and added to other locations as the need arises.
- Per state law, no ordinance containing a criminal penalty may be passed during the same meeting it is introduced.
- For that reason, this ordinance will be introduced on June 27 and then considered with a formal vote on July 25.

Vendor Outreach Efforts:

- N/A

Council Goal(s):

- A well-planned and livable community
- Transportation and accessibility
- A clean and healthy environment

Committee:

- Multimodal Transportation Commission - May 24, 2023 - Approved unanimously provided the time frame is extended to 168 hours (7 days), which is the same time frame for abandoned motor vehicles.

Pro(s):

- Remove loophole regarding no established time period.
- Ensure greater access to public bicycle racks.

Con(s):

- Difficulty in identifying the owner and issuing a parking citation without a license tag.
- Difficulty in removing certain bicycle locks in order to remove a bicycle or other means of personal transportation.
- The City will need to identify storage for any removed bicycles or other means of personal transportation.

Fiscal Impact:

- It is anticipated that there will be a minimal fiscal impact to administer and enforce the amended ordinance.

Suggested Motion:

- On June 27, 2023 - Introduction of an ordinance amending City Code Sec. 12-53 to prohibit the storing of bicycles, carts, strollers, or other means of personal transportation on City property for longer than 168 hours (7 days).
- On July 25, 2023, motion to adopt an ordinance amending City Code Sec. 12-53 to prohibit the storing of bicycles, carts, strollers, or other means of personal transportation on City property for longer than 168 hours (7 days).

Attachment(s)

- Ordinance

ORDINANCE NO. _____

ORDINANCE AMENDING ASHEVILLE CITY CODE OF ORDINANCES SEC. 12-53 TO PROHIBIT THE STORING OF BICYCLES, CARTS, STROLLERS, OR ANY OTHER MEANS OF PERSONAL TRANSPORTATION ON CITY PROPERTY FOR LONGER THAN 168 HOURS (7 DAYS)

WHEREAS, the City of Asheville (herein “City”) has the authority pursuant to N.C. Gen. Stat. § 160A-174(a) to, by ordinance, define, prohibit, regulate or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens or the peace and dignity of the City; and

WHEREAS, pursuant to N.C. Gen. Stat. § 160A-296(a) the City has general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits; and

WHEREAS, the City has the authority pursuant to N.C. Gen. Stat. § 160A-193(a) to summarily remove, abate, or remedy everything in the city limits that is dangerous or prejudicial to the public health or public safety; and

WHEREAS, Sec. 12-53 of the City Code prohibits leaving or allowing to remain unattended any equipment, packages, bags, or other personal belongings on City property, and any such property is subject to removal; and

WHEREAS, Sec. 12-53 of the City Code currently contains an exception that allows persons to leave or allow to remain unattended any bicycles, carts, strollers, or other means of personal transportation, so long as they are secured in such a way as to not obstruct streets or sidewalks, and do not interfere with the use of city property; and

WHEREAS, such exception was likely intended to allow persons to temporarily store bicycles or other means of transportation, however, it has led to situations where bikes have been abandoned and/or left affixed to bike racks for extended periods of time. This places significant limits on the City's ability to address these situations in order to ensure that others are able to utilize public bike racks, and minimize the nuisance of abandoned property at these locations; and

WHEREAS, amending Sec. 12-53 to prohibit the storing of bicycles and other personal transportation devices for more than one hundred and sixty-eight hours would still allow for the temporary use originally envisioned by the ordinance, but would prohibit those behaviors most likely to cause a nuisance;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

1. Sec. 12-53 of the City Code of the City of Asheville is hereby repealed and replaced with the following language:

Sec. 12-53. No storage on city property.

(a) Except pursuant to a permit issued pursuant to article IV of chapter 16 of the City Code, it is prohibited to leave or allow to remain unattended any equipment, packages, bags, or other personal belongings on city property, and any such item is subject to removal by the city. This prohibition does not apply to bicycles, carts, strollers, or other means of personal transportation, secured in such a way as to not obstruct a street or sidewalk, or to interfere with the use of city property, for less than 168 hours (7 days). This article shall not apply to offices or other non- public areas assigned to or under the control of city employees or agents.

(b) Violation of this section shall be a misdemeanor and shall be punishable as provided in N.C. Gen. Stat. § 14-4.

Introduced on June 27, 2023, and read, approved and adopted on this 25th day of July, 2023.

_____ _____

City Clerk Mayor

Approved as to form:

_____

City Attorney