

ORDINANCE 96 - 8

**AN ORDINANCE RELATING TO RIDING BICYCLES
ON THE SIDEWALKS WITHIN THE CITY OF DAHLONEGA ENTITLED:
“BICYCLING ON THE SIDEWALKS IN THE
HISTORICAL AND CENTRAL BUSINESS DISTRICTS”**

WHEREAS, in recent years, the riding of bicycles on the sidewalks has become an increasingly frequent occurrence in downtown Dahlonega, an area used by pedestrians in high volume, and

WHEREAS, the City of Dahlonega has been contacted by downtown Dahlonega businesses, their employees and patrons, complaining that the bicycles have not been operated with care and that the safety of the public is thereby threatened; and

WHEREAS, the City Council of the City of Dahlonega has determined that severe and repeated damage is being done to downtown property and buildings by bicycles; and

WHEREAS, the potential danger to the public and the apprehension thereof by pedestrians is such that it would be reasonable and appropriate for the public safety and well-being to prohibit the riding of bicycles on the sidewalks in downtown Dahlonega.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF DAHLONEGA AND IT IS SO ORDAINED BY THE AUTHORITY THEREOF THAT:

Section 1: A new ordinance is hereby adopted and added to the regulations of the City of Dahlonega to be entitled “Bicycling on the Sidewalks in the Historical and Central Business Districts.”

Section 2: Riding Bicycles on the Sidewalks in the Historical and Central Business Districts.

A. It is unlawful for any person to ride a bicycle upon a public sidewalk in the Historical and Central Business Districts.

B. “Historical Business District” and “Central Business District” as used in this chapter, means the area designated by the Zoning Ordinance of the City of Dahlonega, as now or hereafter amended.

Section 3: Penalties

A. Violation of any of the provisions of Section 2 of this ordinance is a traffic offense and shall be punished as follows:

1. First offense.

It is a traffic infraction for any person to violate Section 2 of this ordinance, and shall be punished by a fine of twenty-five dollars. This fine shall not be suspended or deferred, but the court may authorize community service in lieu of all or part of this fine.

2. Second offense.

A. Every person who violates Section 2 of this ordinance a second time within a five-year period shall be guilty of a misdemeanor, punishable by a fine not less than fifty dollars nor more than one hundred dollars. Fifty dollars of the fine shall not be suspended or deferred, but the court may authorize community service in lieu of all or part of this fine.

B. Upon conviction of a second violation of Section 2 of this ordinance within a five-year period, the court may order forfeiture of the bicycle which was ridden in violation of section 2 of this ordinance, unless it is proven to the court by a preponderance of the evidence that the defendant is not the owner of the bicycle and the owner did not or could not have reasonably known that the bicycle would be ridden in violation of section 2 of this ordinance.

3. Third or subsequent offense.

A. Every person who violates Section 2 of this ordinance a third or more times within a five-year period shall be guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars nor more than one hundred fifty dollars. One hundred dollars of the fine shall not be suspended or deferred, but the court may authorize community service in lieu of all or part of the fine.

B. Upon conviction of a third or subsequent violation of Section 2 of this ordinance within a five-year period, the court may order forfeiture of the bicycle which was ridden in violation of Section 2 of this ordinance, unless it is proven to the court by a preponderance of the evidence that the defendant is not the owner of the bicycle and the owner did not or could not have reasonably known that the bicycle would be ridden in violation of section 2 of this ordinance.

Section 4: Negligent Bicycling.

A. It is unlawful for any person to ride a bicycle in a negligent manner upon any publicly owned property or way open to the public in the City of Dahlonaga. For purposes of this section, "to ride in a negligent manner" means the riding or propelling of a bicycle in such a manner as to endanger or be likely to endanger any person or property: Provided, however, that any person riding a bicycle on private property with the consent of the owner in a manner consistent with the owner's consent shall not be guilty of negligent bicycling.

B. Negligent Bicycling is a traffic misdemeanor, punishable by a fine of not less than fifty dollars nor more than two hundred fifty dollars. Twenty-five dollars of the fine shall not be suspended or deferred, but the court may authorize community service in lieu of all or part of the fine.

C. Upon conviction of a violation of this section, the court may order forfeiture of the bicycle which was ridden in violation of this section, unless it is proven to the court by a preponderance of the evidence that the defendant is not the owner of the bicycle and the owner did not or could not have reasonably known that the bicycle would be ridden in violation of this section.

Section 5: Seizure of Bicycles.

Whenever a law enforcement officer has probable cause to believe a bicycle was used or is being used in violation of this chapter, such bicycle may be seized as evidence and held until the disposition of the charge. An observation by a law enforcement officer that a bicycle is in motion upon the ground or pavement in the Historical or Central Business Districts, whether or not such bicycle is accompanied by a person, shall be sufficient to establish probable cause of a violation of Section 2 of this ordinance.

Section 6: Bicycles-Riding on sidewalks outside Historical and Central Business Districts

A. Whenever any person is riding a bicycle upon a sidewalk outside the Historic and Central Business Districts, such person shall yield the right-of-way to any pedestrian.

B. Violation of any provision of this section is a traffic infraction.

B. "Historical and Central Business Districts," as used in this section, means any area designated by the City of Dahlonega Zoning Ordinance, as now or hereafter amended.

Section 7: Repealer.

Any ordinance of the City of Dahlonega relating to the riding of bicycles on sidewalks and streets to the extent that it is in conflict herewith is hereby repealed.

Section 8: Severability

Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation.

Section 9: Third Party Liability

It is expressly the purpose of this ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this ordinance.

It is the specific intent of this ordinance that no provisions nor any term used in this

ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees, for whom the implementation and enforcement of this ordinance shall be discretionary and not mandatory.

Nothing contained in this ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this ordinance by its officers, employees or agents.

Section 10: Saving

The enactments for this ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this ordinance.

It is so ordained this 6th day of Janurary, 1996.

Haines, Hill
Mayor, City o Dahlenega

Attest:
Janet Jarrard, City Clerk