

ATHENS-CLARKE COUNTY
APPLICATION FOR PUBLICATION RACK(S)
IN THE DOWNTOWN AREA

Return completed information sheet with fees due to the Athens-Clarke County Government, Central Services Department, P.O. Box 1868, Athens, Georgia, 30603-1868, or hand-deliver to the Central Services Department, 150 E. Hancock Avenue. If you have more than one publication, please submit one application per publication. For assistance or additional information, please call (706) 613-3530.

Name of Publication:

Contact Name:

Mailing Address:

Telephone Number:

Email Address:

Locations Requested:

My signature below acknowledges that I have received a copy of the Publication Rack Ordinance and that I agree to comply with all rules and regulations of the publication rack program.

Signature

Date

I hereby agree to indemnify, defend, and hold harmless, Athens-Clarke County and its representatives from all claims, demands, loss, fines, or liability to the extent arising out of or in connection with the installation, use, or maintenance of any publication rack on public property by or on behalf of any such person, except such injury or harm as may be caused solely and exclusively by the negligence of Athens-Clarke County or its authorized representatives.

Signature

Date

CHAPTER 3-1. - PUBLICATION RACKS LOCATED IN SPECIAL PUBLICATION RACK AREAS

Sec. 3-1-1. - Purpose—Scope.

The purpose and scope of the regulations in this chapter are as follows:

- (a) The provisions of this chapter shall apply to all publication racks located on public sidewalks in certain locations designated "special publication rack areas" of Athens-Clarke County.
- (b) It is in the public interest to establish regulations that balance the right to distribute information through publication racks with the right of persons to reasonably and safely access and use public sidewalks and the right to conserve the aesthetic beauty of Athens-Clarke County.
- (c) The public health, safety, welfare and convenience require that interference with vehicular, bicycle, wheelchair or pedestrian traffic be avoided; obstruction of sight distance and views of traffic signs and street-crossing pedestrians be eliminated; damage done to sidewalks or streets be minimized and repaired; the good appearance of public property be maintained; trees and other landscaping be allowed to grow without disturbance; access to emergency and other public facilities be maintained; and ingress and egress from, and the enjoyment of store window displays on, properties adjoining public property be protected.
- (d) The regulations on the time, place and manner of the placement, location and maintenance of publication racks set forth in this chapter are carefully tailored to ensure that the purposes stated in this section are implemented while still providing ample opportunities for the distribution of news to the public.

(Ord. of 12-2-2003, § 1)

Sec. 3-1-2. - Definitions.

For the purposes of this chapter, the following words and phrases are defined and shall be given the meaning set out in this section unless it is apparent from the context that a different meaning is intended.

- (a) "Abandoned publication rack" means any publication rack which remains not in active use for a period of 20 consecutive days; provided, that a publication rack remaining empty due to labor strike or any temporary and extraordinary interruption of distribution or publication by the newspaper or other publication sold or distributed from that publication rack shall not be deemed abandoned. A publication rack not occupied by the publication for which a permit is issued shall be deemed not in active use.
- (b) "Athens-Clarke County" means the Unified Government of Athens-Clarke County or its duly authorized agents.
- (c) "Commission" means the mayor and commission of Athens-Clarke County, Georgia.
- (d) "Manager or manager's designee" means the director of the Athens-Clarke County Department of Central Services or his or her designee.
- (e) "Publication rack" means any self-service or coin-operated box, container, storage unit, or other dispenser installed, used or maintained for the display and sale or distribution of newspapers, periodicals or other publications.
- (f) "Permittee" means any person in whose name the publication rack permit is issued.
- (g) "Person" means any individual, partnership, firm, association, corporation, limited liability company, or other legal entity.

- (h) "Public sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians and part of the right of way owned or controlled by Athens-Clarke County.
- (i) "Special publication rack area" means any area of Athens-Clarke County so designated by the mayor and commission upon findings that the special circumstances of the area require special design, placement and other standards for publication racks.
- (j) "Publication rack module" means a permanently affixed modular structure designed to hold either two, four or six publication racks, provided by or on behalf of Athens-Clarke County, which shall be the exclusive location for the placement of publication racks in a special publication rack area.

(Ord. of 12-2-2003, § 1)

Sec. 3-1-3. - Special publication rack areas designated.

- (a) The commission hereby finds that special circumstances require special design, placement and other standards for publication racks located in the following area(s) of Athens-Clarke County; and such areas are hereby designated as "special publication rack areas":
 - (1) The downtown commercial area.
 - a. The commission hereby designates as a special publication rack area the portion of the commercial downtown zoning district bounded by and including both sides of the following streets (hereinafter referred to as the "downtown commercial area"): Broad Street, Thomas Street, Dougherty Street, and Pulaski Street, as shown on Attachment A hereto and incorporated herein by reference.
 - b. The Commission finds that the downtown commercial area comprises the heart of the Athens-Clarke County business district and is one of the major transportation routes through Athens-Clarke County, as well as the tourist industry center for Athens-Clarke County. The importance of a commercially-thriving downtown has been recognized by the citizens of Athens-Clarke County by their support for downtown improvements funded by a special purpose local option sales tax. Infrastructure and aesthetic improvements to the downtown commercial area have been on-going during the Downtown Streetscape Project since 1998. Said downtown commercial area has become congested with street furniture and fixtures, such as publication racks, and other sidewalk encroachments competing with pedestrians for the public space, obstructing ingress and egress from properties adjoining the public rights-of-way, interfering with the good appearance of, and access to, public sidewalks and streets. The public investment in the landscaping and sidewalk improvements made in the Downtown Streetscape Project needs to be protected from damage by and the detrimental effects of unbridled proliferation of publication racks ungoverned by any criteria for placement or design throughout the downtown district. The need for special standards for placement of publication racks on sidewalks and other public rights-of-way is greatest in the downtown commercial area due to the greater frequency of pedestrian and vehicular traffic and publication rack locations in such area, compared to other parts of Athens-Clarke County. Special standards for the design and location of publication racks, and the enforcement of existing regulations for other sidewalk encroachments in the downtown commercial area, will help to create a sense of order out of chaos and provide a friendly, pleasing and safe environment for those who come to the area.
 - c. The commission finds that the regulation of publication racks as set forth in this chapter provides the least intrusive and burdensome means for ensuring that the purposes stated in this chapter are carried out while still providing ample opportunities for the distribution of news and information to the citizens of Athens-Clarke County by means of publication racks located within public rights-of-way and public property in the downtown district.

- (b) The following special standards shall apply to publication racks and the placement of publications in publication racks within any special publication rack area so designated pursuant to subdivision (a) of this section:
- (1) No publication shall be placed in a publication rack located in a special publication rack area except within a publication rack permitted and provided by Athens-Clarke County in a publication rack module provided by Athens-Clarke County.
 - (2) Original placement of publication racks within a special publication rack area.
 - a. No publication rack shall be located in a special publication rack area unless a permit has been obtained in accordance with subsection b. or subsection c. below:
 - b. Within 30 days after the effective date of the ordinance designating a special publication rack area, or as soon as practicable thereafter, the manager or manager's designee shall establish a date (the "cut-off date") by which application shall be made to the manager or manager's designee for use of a publication rack located within a special publication rack area. No application shall be considered that is filed later than the cut-off date established for that area. The manager or manager's designee shall give notice of the cut-off date by publication once in a newspaper of general circulation in Athens-Clarke County. The manager or manager's designee shall also endeavor to mail notice of the cut-off date to the owners and/or distributors of publication racks existing as of the effective date of the ordinance designating a special publication rack area; provided, however, that failure to provide mailed notice to any person shall not invalidate any action taken pursuant to this section or this chapter.
 - c. The process for obtaining a permit shall be in accordance with section 3-1-5, provided, that where the number of publication racks for which application has been made exceed the number of publication racks available in publication rack modules in a special publication rack area, or in a particular location within a special publication rack area, the manager or manager's designee shall issue publication rack permits in the manner described in procedures established by the manager or manager's designee and approved by the mayor and commission.
 - (3) After the original placement of publication racks within a special publication rack area, as described in subparagraph (2) of this subsection (b), application may be made for use of a publication rack in a location within a special publication rack area for which no empty publication rack is available in a publication rack module. Such applications shall be placed on a waiting list. In the event a publication rack in a publication rack module becomes available, the manager or manager's designee shall issue a permit for that location to the applicant for the location, if there is only one applicant. In the case of multiple applicants for a single location, the manager or manager's designee shall determine which applicant shall receive the permit in the manner described in procedures established by the manager or manager's designee and approved by the commission.

(Ord. of 12-2-2003, § 1)

Sec. 3-1-4. - Permit required.

It is unlawful to install, place, maintain, use or cause to be placed, installed, maintained, or used a publication rack on, or projecting on, any public sidewalk located in a special publication rack area without first receiving a permit therefor from the manager or manager's designee and unless such publication rack is in compliance with the provisions of this chapter.

(Ord. of 12-2-2003, § 1)

Sec. 3-1-5. - Obtaining a permit.

- (a) *Exclusive requirements.* The provisions of this chapter shall be the exclusive requirements for publication rack encroachments onto public sidewalks in special publication rack areas.
- (b) *Application.* Applications for a publication rack permit for one or more publication racks shall be made to the manager or manager's designee on a form prescribed by the manager or manager's designee, which shall include, without limitation:
 - (1) The name, street and mailing address, and telephone number of the applicant, which shall be the duly authorized representative of both the publisher and, if applicable, any independent distributor authorized to service the publisher's publication rack for which the permit is sought;
 - (2) The name, street and mailing address and telephone number of the distributor or other responsible person whom Athens-Clarke County may notify or contact at any time concerning the applicant's publication rack(s);
 - (3) The number of publication racks proposed for use and a description of the exact proposed location(s) applied for and each proposed publication rack location indicated by the applicant on the publication rack locations map provided by Athens-Clarke County showing the locations of the publication racks to be installed by Athens-Clarke County as established by the manager or manager's designee and approved by the commission;
 - (4) A description of each proposed publication rack, including whether it will be sized for tabloids or broadsheets and whether it will contain a coin-operated mechanism; in addition, if applicable, a color copy of the proposed 8½" × 11" logo sticker to be placed on the side or front of each publication rack must be provided with the application;
 - (5) The name and frequency of publication of each publication proposed to be contained in each publication rack;
 - (6) A statement signed by the applicant that the applicant agrees to indemnify, defend and hold harmless, Athens-Clarke County and its representatives from all claims, demands, loss, fines or liability to the extent arising out of or in connection with the installation, use or maintenance of any publication rack on public property by or on behalf of any such person, except such injury or harm as may be caused solely and exclusively by the negligence of Athens-Clarke County or its authorized representatives.
- (c) *Issuance of permit.* After the initial permit period, thereafter a permit shall be issued within ten working days from the date of filing the application with the manager or manager's designee if the application is properly completed and the type of publication rack and location proposed for each publication rack meet the standards set forth in this chapter and if a publication rack is available. A single permit shall be issued for all publication racks applied for by an applicant which meet the standards of this chapter. A permit shall not be transferable. During the initial permit period, the time period for issuing permits shall be provided for in the procedures for allocation of the initial newsracks approved by the mayor and commission.
- (d) *Permit fee.* In order to allow for amortization of the costs of the existing privately-owned publication racks that are to be replaced by the publication racks provided for herein, there shall be no permit fee for the initial three-year permit period. Thereafter, fees shall be set by the mayor and commission and paid on a yearly basis for the period from January 1 to the following December 31. Payment of the fee for the first year of the permit period shall be made upon the issuance of the permit. Payment for the second and third year of the permit term shall be on or before January 1 of the second and third year, respectively. No refund of fees shall be made. Fees for permits issued after January 1 of any permit year in which fees are charged shall be prorated on a monthly basis. Nonpayment of the annual permit fee shall result in the cancellation of the permit for the remainder of the permit term, and the publication racks included in the permit shall be deemed abandoned.
- (e) *Period of permit validity.* All permits issued within three years from the effective date of this section shall expire on the date three years from the effective date of this section, regardless of the date of issuance. All permits issued within the second and succeeding three-year periods shall, likewise, expire at the end of such three-year period.

- (f) *Issuance of permit sticker.* Each permittee shall be issued a pre-printed sticker for each permitted publication rack, which shall be affixed to the lower right corner of the front of each publication rack.
- (g) *Denial of permit.* If a publication rack permit is disapproved, in whole or in part, the manager or manager's designee shall notify the applicant within ten working days from the date of filing a complete application with the manager or manager's designee, explaining the reasons for the denial of the permit and notifying the applicant of the right to appeal the decision. The applicant shall have ten calendar days within which to appeal the decision to the administrative hearing officer in accordance with the appeal provisions set forth in subsection (h) of this section.
- (h) *Appeals.* Any person or entity aggrieved by a finding, determination, notice, order or action taken under the provisions of this chapter may appeal and shall be apprised of the right to appeal to the administrative hearing officer, pursuant to the provisions of section 1-5-1 of the Athens-Clarke County Code. An appeal must be filed within ten days after receipt of notice of any protested decision or action by filing a letter of appeal briefly stating therein the basis of the appeal with the administrative hearing officer. A copy of said written appeal shall also be filed with the manager or manager's designee. A hearing on the appeal shall be held on a date no more than 30 days after receipt of the letter of appeal.
- (i) *Amendment to permit.* In the event of a change in any of the information contained in the application, the permittee shall submit such change in writing to the manager or manager's designee. A permittee may be allocated additional publication racks by an amendment to the permit. The rules and procedures of this section shall also apply to the review and approval of any such amendment.
- (j) *No property rights conveyed.* The issuance of a permit for approved locations for publication racks pursuant to this section shall not be construed or interpreted to convey any property rights or any lease holder rights to any permittee or to any other person. The provisions of this chapter are subject to change by the mayor and commission.

(Ord. of 12-2-2003, § 1)

Sec. 3-1-6. - Standards for maintenance and display of publication racks.

- (a) Every permittee under this chapter shall comply with the following requirements:
 - (1) Every coin-operated publication rack shall be equipped with a coin-return device that is maintained in good repair and working order by the permittee. It shall be the responsibility of the holder of a permit for a coin-operated publication rack to keep such coin-operation device in proper maintenance and order.
 - (2) In addition, every coin-operated publication rack shall display information on how to secure a refund in the event of coin return malfunction. Such information shall be placed in a visible location on the front or top of the publication rack, and shall be legible. The permittee shall be responsible for the display of this information, including its current accuracy and maintenance.
 - (3) Other than the display of the publication contained therein, no publication rack shall display or be affixed with any words or pictures except that where feasible based on the location of the publication rack within the publication rack module, one 8½" × 11" decal with the logo of the publication on it is permitted; said decal shall also contain the required coin return information, if applicable. The logo sticker will be affixed to each publication rack that has adequate space on the side of the rack by the manager or his designee. Publications with more than one publication rack within the same publication rack module shall be required to have at least one of such publication racks within the center of the publication rack module. When the stickers become defaced or worn the permittee shall provide new stickers for Athens-Clarke County to place on the publication rack.
- (b) Old or out-of-date material removed from any publication rack by any person who owns, maintains, or stocks the publication rack shall be recycled or disposed of in a lawful manner. Such material shall not be disposed of in any trash receptacle owned or rented by others, without the express written

consent of the owner or renter of such receptacle. Such material shall be disposed of in a manner that does not cause the material to become litter.

(Ord. of 12-2-2003, § 1)

Sec. 3-1-7. - Violation—Enforcement.

- (a) It shall be illegal to place, install, or maintain any publication rack or any material in a publication rack located in a "special publication rack area" in a manner contrary to any provision of this chapter.
- (b) Any person who violates any provision of this chapter shall be guilty of an infraction and upon conviction thereof shall be punished as provided in section 1-1-5 of this Code.
- (c) Employees in the positions designated in this section are authorized to issue citations for violations of this chapter. The designated employee positions are: (1) Athens-Clarke County Marshal and his or her designees; and (2) the Athens-Clarke County Police Department.

(Ord. of 12-2-2003, § 1)

Sec. 3-1-8. - Nuisance.

Any publication rack or any material in a publication rack placed, installed or maintained in violation of this chapter shall constitute a public nuisance and may be abated in accordance with applicable provisions of law.

(Ord. of 12-2-2003, § 1)

Sec. 3-1-9. - Removal and hearing.

- (a) In addition to the enforcement remedies available to Athens-Clarke County, which are set forth in section 1-1-5 of this Code and in sections 3-1-7 and 3-1-8 of this chapter, any publication rack placed, installed or maintained in violation of this chapter without a permit may be removed by Athens-Clarke County subject to the notice and hearing procedures set forth in this section.
- (b) Summary abatement. Prior notice and an opportunity to be heard shall not be required prior to removal of any publication rack that is installed or maintained in such a place or manner as to pose an immediate or clear and present danger to persons, vehicles or property or any publication rack that is placed in any location without a permit. In such case, Athens-Clarke County shall proceed in the following manner:
 - (1) Within the next working day following removal, the manager or manager's designee shall notify by telephone the permittee or, in the case of an unpermitted publication rack, the owner of the publication rack or a person whose name is shown on the required identification. Within three business days, the manager or manager's designee shall send written confirmation of the telephoned notice. The written confirmation shall contain the reasons for the removal and information supporting the removal, and shall inform the recipient of the right to request, in writing or in person, a post-removal meeting within four business days of the date of such written notice. If the owner of an unpermitted rack cannot be determined and the rack does not contain the required identification, no notice of the removal shall be required.
 - (2) Upon timely request, the manager or manager's designee shall provide a meeting within two working days of receipt of the request, unless the requesting party agrees to a later date. The proceeding shall be informal, but oral and written evidence may be given by both sides. The manager or manager's designee shall give his or her decision in writing to the requesting party within 48 hours after such meeting. If the manager or manager's designee finds that the removal was proper, he or she shall notify the requesting party to pay any applicable penalties

and costs and to recover the publication rack. If the manager or manager's designee finds that the removal was improper and that placement of the publication rack was lawful, the manager or manager's designee shall order that the publication rack be released and reinstalled without charge.

(Ord. of 12-2-2003, § 1)

Sec. 3-1-10. - Abandonment of publication racks.

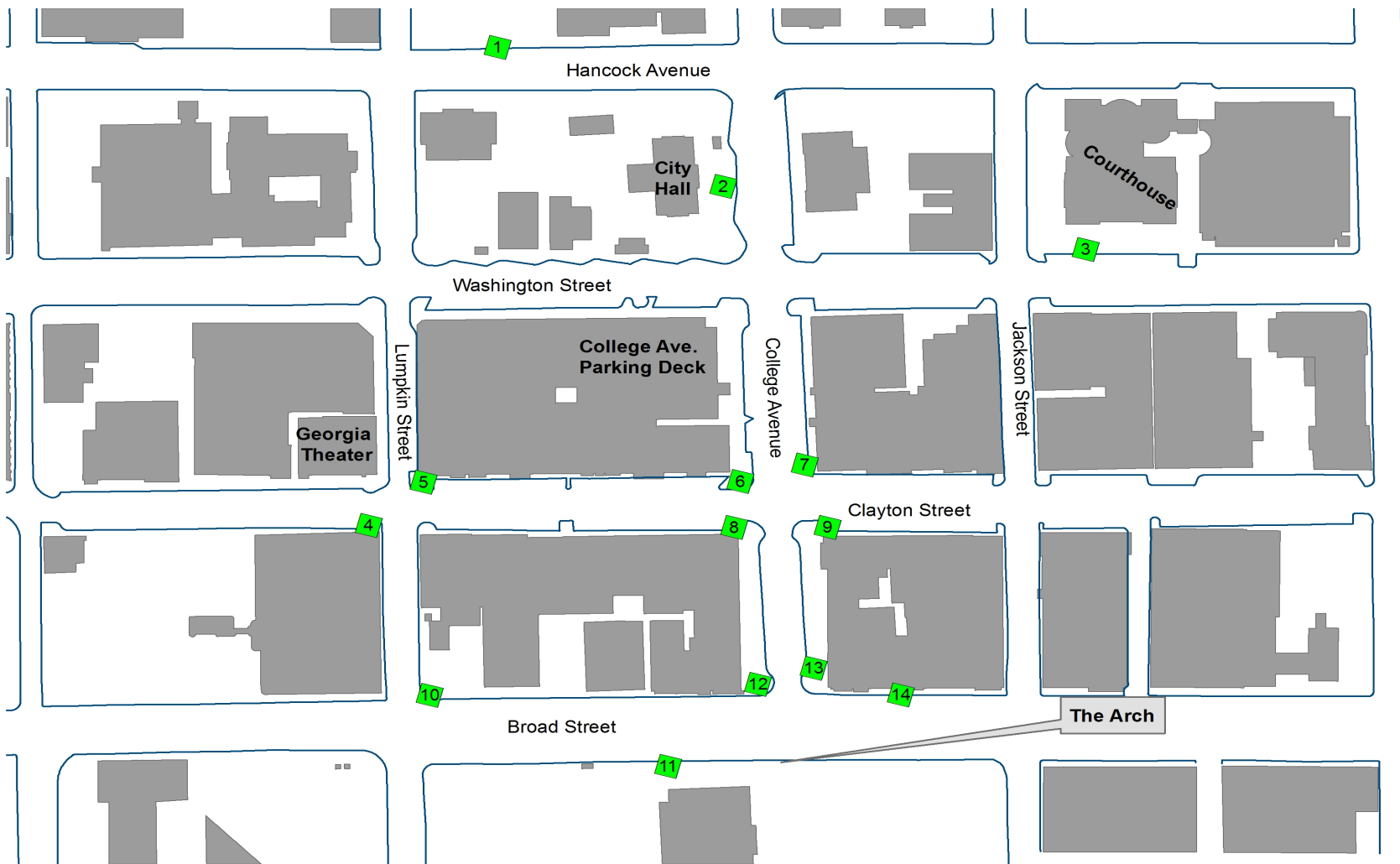
- (a) A publication rack deemed not in active use for 24 hours a day for a period of 20 consecutive days shall be deemed abandoned.
- (b) A publication rack is deemed not in active use when it is not occupied by the publication for which a permit was issued for said publication rack.
- (c) The manager or manager's designee shall notify the permittee of any publication rack deemed abandoned that such permittee must surrender the permit or provide written reasons why such permit should not be revoked or amended to delete the abandoned publication rack within ten days of the date of the written notification.
- (d) Failure to respond or provide sufficient reason why the director should not revoke or amend said permit shall result in the manager or manager's designee revoking such permit or amending such permit to delete the abandoned publication rack. The publication rack under such revoked permit or deleted from the permit shall be made available for reassignment to another applicant under section 3-1-4 and 3-1-5 of this chapter.
- (e) The permittee may surrender the permit to the director of central services prior to its expiration when the permittee no longer wishes to distribute the publication through the publication rack. The publication rack which becomes available under this subsection shall be reassigned to another applicant under the provision of section 3-1-4 and 3-1-5 of this chapter.

(Ord. of 12-2-2003, § 1)

Sec. 3-1-11. - Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this chapter.

(Ord. of 12-2-2003, § 1)



**Athens Downtown
Publication Rack Locations** ■ Publication Racks

