



August 19, 2014

### Comments on DDOT Proposed Rulemaking to Implement the “Safe Accommodation” Requirement of the Bicycle Safety Amendment Act of 2013

Thank you for the opportunity to comment on the proposed § 3314 implementing the “safe accommodation” requirement of the Bicycle Safety Amendment Act of 2013 (“the Act”). As an organization representing the interests of the region’s bicyclists, these comments focus on the regulation of bicyclist accommodation and do not address the pedestrian-specific elements.

1. **Structure.** We are generally pleased with the structure of these proposed regulations, and specifically support the “prioritization of methods” approach of § 3314.4(d).
2. **Maintenance.** Section 3314.4(b) places an ongoing requirement on the permittee (“shall maintain”) to maintain the pedestrian accommodation free of various obstructions and hazards. This ongoing maintenance requirement should similarly be applied to bicyclist accommodations. While the language of § 3314.4(c)(2) is similar, this provision does not contain the same explicit maintenance requirement for the duration of the accommodation’s existence and could be interpreted as a condition precedent to issuance of a permit rather than as an ongoing obligation for the life of the accommodation.
3. **Requirements, not Examples.** The enumerated requirements of § 3314.4(c) are requirements, not illustrative examples. Therefore, the words “such as” should be struck.
4. **Feasibility.** While no one benefits from the enactment of regulations requiring “infeasible” actions, the use of “whenever feasible,” without further definition or criteria for determining feasibility, places too much discretion in the hands of permitting officials. The regulations should clearly state the criteria that must be met by an applicant to demonstrate infeasibility.
5. **Last Resort.** The use of the phrase “As a last resort” in § 3314.4(d)(5) suggests that no accommodation of lesser quality than a detour to an adjacent route along with the replication of the level of safety of the blocked facility is acceptable. We support this provision and concur that a detour alone, without an accompanying analysis of the quality of the detour route as compared to the blocked facility, is insufficient.
6. **Minimum Design Standards.** Presently, the proposed rules provide no minimum design standards for the safe accommodation—requiring only that they be relatively equal in level of safety to the impacted bicycle facility. Just as minimum motor vehicle lane widths are provided in § 3314.4(d)(2) and objective standards for pedestrian facilities are provided by reference to DDOT standards in § 3314.4(a), minimum design widths and standards for safe bicycle accommodations should be provided by reference to objective standards, such as the current DDOT Bicycle Facility Design Guide, or current authoritative standards set by external experts such as NACTO or AASHTO.
7. **Peak Hours.** While § 3314.7 contains criteria for closing the safe accommodation during off-peak hours, it does not expressly prohibit closures during peak hours. An explicit prohibition to this effect should be added.

8. **Application to Trails.** The requirements of § 3314 must apply to trails, in addition to on-road bicycle facilities, to meet the requirements of the Act. While trails are included within the definition of “Public bicycle path” in these rules, the Act, and DC Code § 50-1609, these rules do not specifically address the safe accommodation required when a permittee impacts a trail that is a public bicycle path. This could be accomplished by amending § 3314.4(d) to clarify that it pertains to public bicycle paths on roadways and adding a § 3314.4(e) stating that: “The method for providing the safe trail accommodation for bicyclists shall require construction of a detour of similar width and character adjacent to the impacted trail, or as a last resort, detouring bicyclists onto the nearest roadway, in which case the detour shall replicate, as closely as practicable, the level of safety found on the bicycle route being blocked.”

Thank you for the opportunity to provide these comments. We look forward to the opportunity to work with DDOT and other District agencies to implement the Act in a way that improves the management of the District’s public space and improves safety for people who travel by bike.