

CHAPTER 7

STREETS AND SIDEWALKS

ARTICLE I - OBSTRUCTIONS

| | |
|--------------|---|
| Section 7-1 | Obstructions Prohibited |
| Section 7-2 | Overhanging or Protruding Trees, Shrubs, Fences, etc. |
| Section 7-3 | Drainage-Related Interference with Sidewalks |
| Section 7-4 | Warnings Required for Obstructions |
| Section 7-5 | Depositing Injurious Materials on Street |
| Section 7-6 | Snow and Ice Removal |
| Section 7-7 | Maintenance of Drainage Swales |
| Sections 7-8 | Reserved |

ARTICLE II – ENCROACHMENTS, DRIVEWAYS AND EXCAVATIONS

| | |
|--------------|--|
| Section 7-9 | Encroachment Permit Required |
| Section 7-10 | General Conditions for Use of Rights-of-Way |
| Section 7-11 | Application Requirements |
| Section 7-12 | Driveways Additional Requirements |
| Section 7-13 | Excavations Additional Requirements |
| Section 7-14 | Additional Requirements for Wireless Support Structures, Wireless Facilities, and any other Wireless Communication Facility, Small Wireless Facility or Micro Wireless Facilities in the Rights of Way |
| Section 7-15 | Town Indemnified |

ARTICLE III - STREET OR OTHER PUBLIC EVENTS

| | |
|--------------|--|
| Section 7-16 | Activities Covered |
| Section 7-17 | Permit Required |
| Section 7-18 | Permit Application |
| Section 7-19 | Permit Exemptions |
| Section 7-20 | Staff Review |
| Section 7-21 | Insurance |
| Section 7-22 | Fees; Costs Incurred by Town |
| Section 7-23 | Standards for Issuance of Permit |
| Section 7-24 | Street Closings |
| Section 7-25 | Sponsor Responsible for Cleanup |
| Section 7-26 | Certain Payment Exemptions for First Amendment Public Events |
| Section 7-27 | Appeals |

ARTICLE IV - MISCELLANEOUS

| | |
|--------------|--|
| Section 7-31 | Damaging Street Surfaces, Street Signs, Other Facilities |
| Section 7-32 | House and Building Numbers |
| Section 7-33 | Administrator |
| Section 7-34 | Penalties and Remedies (<i>amend. 10/11/22</i>) |
| Section 7-35 | Reserved |

ARTICLE V - CARE AND PROTECTION OF TREES

| | |
|--------------|---|
| Section 7-36 | Purpose, Intent and Scope of Article |
| Section 7-37 | Tree Board |
| Section 7-38 | Permits |
| Section 7-39 | Additional Measures to Protect Trees and Shrubs |

Article I

OBSTRUCTIONS

Section 7-1 Obstruction Prohibited

(a) Except as otherwise authorized by statute or ordinance (including Sections 7-11 and 7-12 of this chapter), and except to the extent required by the performance of some function authorized or mandated by a statute or ordinance, no person may obstruct or impede travel in the public streets or sidewalks within the Town by placing or leaving any object within the traveled portion of the public right-of-way.

(b) Except as provided in this subsection, subsection (a) applies to goods, wares or merchandise displayed for sale. Partial obstruction of a public sidewalk for a sidewalk sale is permissible in accordance with a permit issued by the administrator upon a finding that:

(1) The sale will not extend for more than three consecutive days;

(2) The obstruction will take place only during daylight hours;

(3) The permit, together with any other permits issued to the same applicant or to other applicants for sale at the same location, will not authorize an obstruction for more than ten days during any 365-day period; and

(4) The sidewalk will not be partially obstructed in a manner that does not seriously inconvenience the public or threaten the public safety.

(c) Subsection (a) of this section shall not apply to temporary obstructions caused by persons engaged in construction work on abutting property when proper warning devices are maintained in accordance with Section 7-4.

Section 7-2 Overhanging or Protruding Trees, Shrubs, Fences, etc.

(a) No person may cause or allow (from property under their control) any tree limb, bush, shrub, or other growth or any trellis, fence or other obstruction to overhang a public street at a distance of less than 12 feet above the traveled portion of such street or a public sidewalk at a distance of less than 7 feet above such sidewalk.

(b) No person may cause or allow grass, vines, weeds, or other vegetation to grow from property under their control over, onto, or across any public street or sidewalk.

(c) Any violation of subsection (a) or (b) is declared to be a public nuisance, and if not corrected by the responsible person within 7 days after being notified of the violation by the administrator, the Town may summarily abate such nuisance.

Section 7-3 Drainage-Related Interference with Sidewalks

(a) No person may cause or permit gutters, ditches, ducts, or drain pipes to be constructed or placed on property under their control in such a manner that the water runs across a public sidewalk.

(b) Subject to the next sentence, all owners of property abutting concrete, brick, or other permanently improved public sidewalks shall grade such property or construct a retaining wall in such a manner as to prevent the washing of dirt, grass, gravel, or other material upon the Town sidewalks. If the Town constructs a sidewalk, it shall be responsible initially for taking the necessary steps to prevent the washing of such materials upon the sidewalk.

Section 7-4 Warnings Required for Obstructions

(a) All persons engaged in doing work that creates any dangerous condition or obstruction in the public right-of-way of any street or sidewalk shall take whatever action is necessary, including the placement of barricades and warning signs or devices, to warn the traveling public of the condition or obstruction.

(b) No person may remove, destroy, injure, or tamper with any barricade, sign, lantern, torch, or other device placed in any street or sidewalk to warn or give notice to the traveling public of any dangerous condition or obstruction.

Section 7-5 Depositing Injurious Materials on Street

(a) No person may throw or deposit upon any street or public right-of-way any glass bottle, nails, tacks, wire, paper containers, cans, or any other substance likely to injure any person, animal or vehicle.

(b) Any person who deliberately or inadvertently causes or allows any of the materials specified in subsection (a) to be deposited on any public street or right-of-way shall immediately remove such materials or cause them to be removed.

Section 7-6 Snow and Ice Removal

Every occupant of any building used for commercial purposes, and the owner of any building used for multi-family residential purposes (i.e., more than 2 dwelling units) in front of which there is (a) a sidewalk paved with stone, brick, asphalt or cement, or (b) a paved parking area intended for the use of customers, employees or residents, shall clear snow, ice or other similar obstruction from the sidewalk and/or paved parking area at the earliest possible time and as soon as the weather permits.

Section 7-7 Maintenance of Drainage Swales

(a) The owner of every lot that has a drainage swale running along the street shall mow and otherwise properly maintain such swale so that it can continue to serve its proper drainage functions.

(b) Subsection (a) applies only to swales constructed in accordance with the standards established by the Town's subdivision ordinance.

(c) If a lot is leased by the owner to a single tenant, the owner shall be responsible for the obligations set forth in subsection (a).

Sections 7-8 Reserved

Article II

DRIVEWAYS AND EXCAVATIONS

Section 7-9 Encroachment Permit Required

Prior to performing work or placing facilities in a public right-of-way in the Town, a user must obtain an Encroachment Permit (also called “work permit”) issued by the administrator. An encroachment permit is required for the following activities:

- (a) Excavation or restoration within the public way, including but not limited to construction of new portions of a driveway, sidewalk or public way;
- (b) Cutting, mobbing, or alteration of concrete, pavement, paver (for example, brick or stone), pipe, conduit, pole, meter, fire hydrant, facility, or other equipment or structure owned by the Town, or attachment to such objects;
- (c) Installation or repair of facilities within the public way, including, but not limited to, placing facilities on other facilities already located in the public way;
- (d) Construction of private streets (including, but not limited to, paving and gutters), sidewalks, or alleys;
- (e) Installation or repair of facilities for the conveyance of water, sewer, or stormwater;
- (f) Installation or repair of facilities for electrical, gas, video, internet, telephone, cable, telecommunications, television, or other information or data transfer service to customers within the Town;
- (g) Work in the rights-of-way that affects traffic patterns, either permanently or temporarily;
- (h) The installation of any permanent structures or property in the public right-of-way including utilities and communication networks;
- (i) Make Ready Work. The Town shall provide estimates for any make-ready work necessary to enable a Town utility pole to support the requested collocation, including pole replacement, if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written agreement on the cost of the work;
- (j) Attachments to or replacements of Town utility poles;
- (k) Attachments to Town property (other than Town utility poles) in NCDOT or other rights-of-way;
- (l) The Town may approve agreements for the use of Town property that substitute for encroachment or work permits, such as the lease of antenna space on a water tower.

Section 7-10 General Conditions for Use of Rights-of-Way

(a) Rights-of-way in the Town may be controlled by N.C. Department of Transportation (DOT), private parties, and/or the Town. The Town issues and/or monitors work and/or encroachments in the Town's right-of-way by issuing encroachment permits. Where Town property is located in DOT rights-of-way, the Town issues permits for disturbance or use of its properties including attachments to Town-owned poles located within DOT right-of-way.. Encroachment permits, or agreements are required to attach or use any Town property. Wireless telecommunication facility encroachments in the public rights-of-way require review by the Planning Department. (See Chapter 15 of this Code, (Land Use Ordinance). All public right-of-way encroachments must be reviewed by the Town Manager or designee, including attachments to Town utility poles, replacement of Town utility poles, and "make ready" requests.

(b) The right to perform work in the public right-of-way and the ability to maintain facilities in the public right-of-way are allowed subject to the conditions in §§ 7-9 and 7-11 and below, as supplemented by those set forth in other sections of this ordinance, standards adopted by the Public Works Department, and requirements contained in permits and/or other authorizations.

- (1) An encroachment permit does not convey any legal right, title, or interest in the public way. Persons doing work in the public way and users may need to obtain approvals from persons with property interests in the property.
- (2) A permit or authorization does not limit the Town's exercise of its regulatory, police, government, legislative, or contracting authority. The Town retains all rights to use all portions of public rights-of-way for its purposes not prohibited by law. If a permit or authorization conflicts with the terms of another permit or authorization, or with the Town Code, the stricter of the applicable provisions shall control. The stricter provision shall not control, however, if a later-issued permit, authorization, or ordinance explicitly and specifically states that particular terms are to override prior, less strict terms in an authorization.
- (3) The Town and its officials, officers, and employees are not liable for any direct, indirect, or consequential damages that result when facilities in the public way are damaged during the construction, installation, inspection, maintenance, use, or repair of public improvements that have received Town funding or that are installed pursuant to a contract with the Town.
- (4) Users and persons who cause work to be done in the public way shall pay for all damage that results, directly or indirectly, from work performed for their benefit in the public right-of-way, and for the installation, repair, maintenance, and operation of their facilities in the public right-of-way.

- (5) An encroachment permit creates no third-party rights against the Town and is intended only for the benefit of the person receiving the permit or authorization.
- (6) Persons doing work in the public right-of-way shall not interfere with existing utilities, such as infrastructure for conduit and fiber optics, electricity, water, natural gas and sewer, the natural and constructed stormwater system, and traffic signals and associated lines, or the repair or replacement of such systems. Persons doing work in the public right-of-way that does not involve creating a new structure shall apply for an encroachment permit at least ten (10) working days prior to initiating work, to allow time to locate and mark any existing Town utility lines. Persons building structures and/or utility poles, including wireless facilities, and associated underground conduit, shall apply for an encroachment permit at least thirty (30) calendar days prior to beginning work. (See section 7-9.) The application shall accurately describe the portion of the street to be affected. Damage to Town utilities or other infrastructure shall be paid for by the person or user contracting for the work that resulted in such damage. If an encroachment permit is not required, persons doing work in the public right-of-way shall also give the Town Public Works Department at least ten (10) working days' notice to locate and mark any existing Town utility lines prior to initiating work. In addition, in all cases mentioned above, persons will give the department a second notice 24-hours before beginning any work in the public right-of-way as required by Section 7-10(15) below.
- (7) Persons and users performing work in the public way shall ensure worker, traffic, and pedestrian safety and shall ensure that all work is performed in accordance with industry standards. Compliance with all federal, State, and local regulations, and all federal, State, local, and industry codes and standards are required. These include, but are not limited to, compliance with the Occupation Safety and Health Act; compliance with the Manual of Uniform Traffic Control Devices, National Electrical Code, and National Electrical Safety Code; compliance with fiber optic installation standards and telecommunication industry standards; compliance with plumbing and pipe installation codes and standards; and compliance with standards and codes for traffic safety and lane closures. Persons and users shall provide all equipment and personnel necessary to meet applicable regulations, codes, and standards, and shall furnish additional equipment or personnel if requested by the Town.
- (8) The administrator shall have the discretion, for reasons of public health or safety, to approve, deny, alter, and condition all proposed locations of facilities in the public way, and to determine whether placement, if allowed, shall be above ground or below ground.
- (9) Wires, fiber, and other similar conduit shall generally be located underground. A user that wishes to place such facilities above ground shall demonstrate to the Town's satisfaction why above-ground placement is necessary.

- (10) The Town recommends but does not require that facilities be located in existing ducts if such ducts are available and practicable to use.
- (11) A user shall demonstrate to the administrator's satisfaction that sufficient space exists in the public way for its proposed facilities without interfering with existing or planned public projects, and that placement of the facilities will not unduly disrupt use of the public way or negatively impact the condition of the public way.
- (12) The administrator may require a user to post written notice of proposed work or activities along the public way impacted and/or distribute notices to individual properties located along the impacted public way.
- (13) Users shall give the Town as-built or other maps, which shall be furnished in the form required by the Public Works Department, and changes to planned locations that were necessary to avoid pre-existing infrastructure. Users shall give the Town any other commercially reasonable information it requests regarding the installation of facilities, including underground conduit, upon completion in accordance with application requirements.
- (14) A person or user that conducts excavation or other activities that disturb the public rights-of-way or plantings within the public rights-of-way or facilities within the public way shall restore the area to a functional condition equivalent to that it was in prior to the disturbance. The restoration shall include, but is not limited to, installation of pavement, resurfacing nearby areas, grading other surface areas, restoring below-ground areas, planting and landscaping, replacing curb ramps to current standards, and repairing improvements and facilities. Replacement landscaping shall comply with the requirements of Article XIX and Appendix E of Chapter 15 of this code.
- (15) Users shall contact the Public Works Department at least 24-hours prior to actual work performed in the right-of-way, except in the case of an emergency.
- (16) To the extent permitted by North Carolina law, the Town may require a performance bond for work to be done in the public right-of-way.
- (17) A user shall, at its own cost, relocate its facilities within a time determined at the discretion of the Town, upon providing at least 120 days prior written notice to the user, if the Town determines that the facilities were placed in the public right-of-way without first obtaining permission from the Town, and the facilities:
 - a. Interfere with the use of the public way, or the provision of services to Town residents; or
 - b. Interfere with the repair or maintenance of any Town-maintained utility; or

- c. Will impede the construction of a project funded in part with public funds, or a project to be dedicated to the public upon completion. The Town agrees to work in good faith to identify a suitable alternative location to relocated affected facilities.

Section 7-11 Application Requirements

An application must be filed with the administrator before the commencement of any work described in Section 7-9, including modification, change, or replacement of equipment that would be different in size, weight, or appearance than the existing equipment that is not otherwise exempt under this ordinance. The following information shall be submitted in an application for an encroachment permit:

- (a) Contact information for the user of the public right-of-way and contractors performing the work. Include all contractor's/trade's/professional licenses held and license numbers.
- (b) Description of the work to be performed, including the specific location or the requested make ready work.
- (c) Construction drawings demonstrating compliance with the Town's Engineering Specifications and Standard Details, the NCDOT Subdivision Road Manual, the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD), and all relevant portions of Chapter 15 of this Code (Land Use Ordinance).
- (d) Description of all existing infrastructure within the proposed work area and any proposed modification, improvement, or movement of infrastructure.
- (e) Evidence that the owners of other utilities or encroachers near the new work have been notified.
- (f) Proposed work schedule.
- (g) The Town may require persons that do work in the public right-of-way and users to provide insurance by a company authorized to do business in the state, including, but not limited to:
 - (a) workers' compensation coverage for all employees;
 - (b) employers' liability insurance; (c) commercial general liability; and
 - (d) business auto policy. The Town may require that the Town, its officials, employees, and consultants be named as additional insureds on such insurance policies. In such cases, the applicant shall provide a certificate of insurance. If an applicant has previously damaged Town property or has not adequately repaired damaged Town property during the past three (3) years, the amount of insurance shall be as determined by the Town, in part based on the scope of the work and the tenure or term of occupancy.

(h) To facilitate the preparation and submittal of an application in compliance with this ordinance, and thereby expedite the review and permitting of an application, a pre-application meeting may be held.

(i) No permit or authorization shall be granted for new equipment or facilities that are not expressly and individually identified at the time of the application, including the specific location and design characteristics of each facility.

(j) A site visit of each facility or proposed location of a new facility may be conducted to determine the physical condition of the facility or proposed location and to identify any issues of concern, non-compliance with applicable laws, rules, and regulations, and any safety issues or concerns.

(k) Installations in the public right-of-way shall be located and constructed to create the least visual impact on the immediate surrounding area and the least physical intrusion and impact on the limited space in the public right-of-way. Such facilities/equipment shall not be constructed in a sight triangle or so close to the curb or edge of pavement that a safety hazard is created. (See Manual on Uniform Traffic Control Devices and Chapter 15 of this Code, (Land Use Ordinance), Appendix A on Sight Triangles).

(l) All cable risers or other vertically run cable of any kind attached to a pole or other support structure shall be protected with non-conductive, non-degradable material matching the color of the pole or support structure as closely as is reasonably possible.

(m) New and replacement wireless telecommunication facilities (poles or support structures that are not substantial modifications or routine maintenance) shall require a zoning permit and encroachment permit application. An application for a new or replacement pole or support structure must include detailed design criteria, including material composition, aesthetic appearance and structural adequacy analysis with calculations which must be able to be independently verified using the information submitted by the applicant to determine compliance with Town standards.

1. New and replacement installations shall be consistent throughout Town limits;

2. When feasible, in lieu of installing new poles, new wireless telecommunication facilities, installations shall first consider the following:

(i) replace existing distribution poles,

(ii) then secondary poles, or

(iii) thirdly streetlights with a pole that meets the standards set forth in this section. New poles shall not be installed unless no existing pole is suitable or can be modified or replaced by a new pole in the same location;

3. New utility poles shall comply with the Town's adopted standards for small wireless utility poles.

Section 7-12 Driveways Additional Requirements

(a) Any person who receives a permit under this section shall be responsible for repairing any damage to the sidewalk or street (including curb and gutter) caused by the driveway construction.

(b) The administrator shall review the driveway construction and design plans and shall issue the permit unless he finds the driveway, if constructed as proposed, will substantially interfere with or pose a danger to: (1) persons using the street or sidewalk intersected by the driveway, or (2) public facilities (including utility poles, traffic signal standards, etc.), or will fail to comply with any of the provisions of this section.

(c) No driveway may be constructed closer than 3 feet to a fire hydrant or catch basin or closer than 30 feet to the right-of-way line of a street that intersects with the street the driveway opens onto.

(d) If the driveway crosses a drainage ditch on a lot that abuts a street without curb or gutter, then piping of sufficient size and strength (as approved by the administrator) shall be installed beneath the driveway surface so that the drainage capability of the drainage ditch is not materially impaired.

(e) This section shall not apply to driveways that open into state-maintained streets to the extent that the state has approved the driveway. Nor shall a person be required to obtain a permit under this section to the extent that the driveway is being constructed in accordance with plans approved pursuant to a review process authorized by Chapter 15 of this Code.

Section 7-13 Excavations Additional Requirements

(a) Except in emergency situations or as otherwise provided in this section, no person may dig in or excavate any street or sidewalk within the town without having obtained a written permit from the administrator.

(b) Any person who receives a permit in accordance with this section shall be responsible as soon as weather permits for putting the street or sidewalk where any excavation is made in as good a condition as it was prior to the excavation.

(c) Before granting an encroachment permit pursuant to this section, the administrator shall determine that the applicant has decided to comply with subsection (b), and if the town is to do the necessary repair work, the permit shall not be issued until the applicant makes a deposit equal to the estimated costs of repair.

(d) This section shall not apply to any excavation made in a state-maintained street to the extent that the state has given its permission for such an excavation to be made, except that the person making the excavation shall still be responsible for notifying the administrator of the intended excavation forty-eight (48) hours before the work begins.

Section 7-14 Additional Requirements for Wireless Support Structures, Wireless Facilities, and any other Wireless Communication Facility, Small Wireless Facility or Micro Wireless Facilities in the Rights of Way

An applicant shall demonstrate compliance with Sections 7-9, 7-10 and 7-11 of this section and provide the additional supplemental information specific to wireless facilities, structures, and ancillary equipment. The definitions adopted in Chapter 15 of this Code (Land Use Ordinance) Article II, shall be used in this section and are incorporated herein by reference.

- (a) Persons adding or modifying wireless facilities in a public right-of-way shall apply for an encroachment permit at least thirty (30) calendar days prior to initiating work.
- (b) To facilitate the application process and to mitigate application-related costs for applicants, applications for small/micro wireless facilities may be submitted in groups of up to twenty-five (25) facilities in a single application.
- (c) No Taxpayer Subsidization. Taxpayers may not directly or indirectly subsidize an applicant's costs.
- (d) The height of wireless support structures, utility poles, and Town utility poles and small wireless facilities shall meet the standards in Section 176(d) of Chapter 15 of this code.
- (e) On blocks where decorative light or utility poles are installed, collocations may only occur on decorative poles if feasible. New poles shall be of the same design and materials as the decorative poles. (See Section 7-10 for information on encroachment on Town utility poles).
- (f) New small wireless support structures may be built no closer than 200 feet front an existing support structure or utility pole. The Town may consider a deviation from this standard upon request of the user if no feasible alternative in the public right-of-way exists.
- (g) Compliance with National Electrical Safety Code NESC (NESC) and National Electrical Code (NEC): all electronic attachments to poles or other structures in the public right-of-way shall always follow the edition of the NESC and the NEC in effect the later of (a) the time the facility was constructed; or (b) the time of the last modification of equipment on the pole or other support structure; or (c) the edition in effect at the time of the current application.
- (h) Service Date: Applicants shall attest that small wireless facilities be activated and placed in service no later than one year from the date the permit is issued.
- (i) Abandonment. Wireless service providers are required to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned facility, the Town may cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless service provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless service provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility

ceases to transmit a signal, unless the wireless service provider give the Town reasonable evidence that it is diligently working to place such wireless facility back service.

(j) Materials. The composition of new poles shall comply with the standards in Section 176 of Chapter 15 of this code.

(k) Sizes: Micro and Small Wireless Facilities shall meet the size limits found in Article II of Chapter 15 of this code, "Definitions."

Section 7-15 Town Indemnified

Any person obtaining a permit authorized by this Article agrees as a condition of the permit to indemnify the town of and hold the town harmless from any expense (including but not limited to attorney's fees, litigation costs and judgments) incurred as a result of claims made for damages arising out of operations conducted by the permit recipient pursuant to the permit, except for the Town's intentional misconduct.

Article III

STREET OR OTHER PUBLIC EVENTS

Section 7-16 Activities Covered

This article applies to:

- (1) All street fairs, festivals, carnivals, parades, marches, rallies, demonstrations, pickets, and other activities that require the temporary closing or obstruction of a street, sidewalk, or other public right-of-way or any segment thereof or that otherwise substantially hinders or prevents the normal flow of vehicular or pedestrian traffic along any street or other public right-of-way; and
- (2) Any public activity reasonably expected to be attended by 400 or more individuals for the purpose of making a public display or demonstration of sentiment for or against a person or cause (including protesting that may include the distribution of leaflets or handbills, the display of signs or any oral communication or speech, or that may involve an effort to persuade or influence, including all expressive or symbolic conduct, whether active or passive) to be held at the Town Commons or at any park or other open space of the Town.

Any of the foregoing activities, which are covered by this article, are hereafter referred to as “the public event.”

Section 7-17 Permit Required

No person may run, operate, or sponsor any public event without a permit obtained from the administrator in accordance with this article.

Section 7-18 Permit Application

Applications for the permit authorized by this article shall be submitted on a form provided by the administrator at least 90 days before the time at which a public event not conducted for the exercise of freedoms protected under the First Amendment is scheduled to begin, and at least 36 hours before the time at which a public event that is conducted for the exercise of freedoms protected under the First Amendment or under Section 7-16 (2) is expected to begin.

Notwithstanding the preceding sentence, the administrator may, if reasonably practicable, act on a permit application submitted less than 36 hours before the time at which such a public event is conducted, and shall contain the following information:

- (1) Name, address, and telephone number of the person, organization or entity seeking to conduct or sponsor the public event;

- (2) Name, address, and telephone number of the individual in charge of the public event;
- (3) The proposed date and time period when the public event will be conducted;
- (4) A sketch-map showing:
 - a. The area where the public event is to take place.
 - b. Any streets or other rights-of-way to be closed or obstructed.
 - c. Any barriers or traffic control devices that will be erected.
 - d. The location of any concession stand, booth, platforms, benches, or bleachers.
 - e. The location of proposed fences, stands, platforms, benches, or bleachers.
- (5) The approximate number of people expected to attend the public event;
- (6) When applicable, a request that the Town provide specified services and/or that the Town close identified streets or portions of streets for a particular period;
- (7) Sufficient proof of liability insurance in accordance with Section 7-21;
- (8) Any other information determined by the administrator to be necessary to ensure compliance with this article.

Section 7-19 Permit Exemptions

The following public events are exempt from the permit requirements of this article: the annual Christmas parade, the Fourth of July celebration, the Carrboro Day celebration, the Carrboro Music Festival, the Four on the Fourth Road Race, Carrboro 10K Road Race, the Gallop and Gorge Road Race, Frangelism in the Park, the Open Streets Events, and the St. Paul AME 5K.

Section 7-20 Staff Review

Upon receipt of the permit application, the administrator shall circulate it to the police chief, the fire chief, the public works director, and other appropriate persons, such as the Special Events Committee for their comment. The administrator may arrange to have a conference on the application with the applicant and one or more department heads.

Section 7-21 Insurance

The administrator may require as a condition precedent or subsequent to issuance of the permit that the applicant obtain a comprehensive general liability insurance policy or comparable special events liability insurance policy issued by an insurance company authorized to do business in this state, with coverage that includes the entire area of the public event. If such a policy is required,

the Town shall be named as an additional insured on the policy. The policy limits of such insurance shall be not less than the following, but the administrator may require higher limits if it finds that the risks associated with the event warrant such higher limits:

| | |
|------------------------|--|
| Property Damage | \$50,000 for each occurrence |
| Bodily Injury or Death | \$100,000 for each person, \$300,000 for each occurrence |

Section 7-22 Fees; Costs Incurred by Town

- (a) A basic minimum fee sufficient to cover the cost of providing the notification required by subsection 7-24(d) shall be paid by the applicant. The amount of this fee shall be based upon an estimate of the expenses that will actually be incurred to provide the required notice.

- (b) In addition, if the Town is requested to provide extra-ordinary services or equipment or the Town administration otherwise determines that extraordinary services or equipment should be provided for reasons related to public health or safety, the Town shall take whatever action is necessary under the Local Government Budget and Fiscal Control Act to make available the necessary funds for the provision of such services or equipment.

- (c) The administrator may require the applicant to pay to the Town a fee sufficient to reimburse the Town for the costs of any extraordinary services or equipment provided.

Section 7-23 Standards for Issuance of Permit

- (a) Subject to subsection (e) of this section, the administrator shall issue the permit authorizing the public event unless it finds that:
 - (1) Conduct of the public event will require the assignment of so many police officers that the remainder of the Town cannot adequately be protected; or

 - (2) The public event will interfere with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided throughout the Town; or

 - (3) The applicant has failed to obtain any necessary permits or licenses, including any required building permit or privilege license, or the applicant is otherwise in violation of any Town ordinance; or

 - (4) The public event will work a severe hardship on persons occupying property adjacent to the site, location, or route of the public event as a result of the denial of access to property or for other substantial reasons; or

 - (5) The public event, if held at the time or at the location or along the route proposed, will cause an unreasonable and unwarranted disruption to vehicular or pedestrian traffic; or

(6) The applicant has failed to comply with any of the provisions of this article, including the payment of any fees required.

(b) If a permit is issued in accordance with subsection (a), the administrator may attach to it any reasonable conditions, including, without limitation, alternative time, place, and manner restrictions for the public event.

(c) If the administrator finds that the permit cannot be issued for reasons specified in subsection (a), the administrator may request the applicant to modify its application to remove any objections to the issuance of the permit.

(d) Any public event conducted pursuant to a permit issued under this section shall be conducted strictly in accordance with the terms of the permit, including any conditions attached thereto.

(e) The administrator may issue a permit under this article for a road race public event only if such event will benefit a non-profit organization that is based in or provides services in Orange County.

Section 7-24 Street Closings

(a) If the administrator finds that the permit should be issued and that, to conduct the event, it is necessary to close a street or to reroute traffic, the Town may pass a resolution authorizing this to be done. No such resolution shall be passed affecting streets that are part of the street system without the approval of the State Department of Transportation.

(b) The resolution shall identify the street or portion thereof to be affected and shall indicate the date and time when the street or portion thereof is to be closed or traffic thereon is to be limited in some way. The resolution shall also direct the administrator to have appropriate traffic control devices installed to give notice of the temporary traffic controls.

(c) No person may operate any vehicle contrary to the traffic control devices installed in accordance with subsection (b).

(d) The administrator shall, by any adequate means, notify persons occupying property abutting the street where the event is to take place of the contents of any resolution passed in accordance with this section.

Section 7-25 Sponsor Responsible for Cleanup

The sponsor of the public event shall be responsible for cleaning up any litter caused by the event, removing all temporary obstructions, and in general returning the area where the event takes place to the condition that existed prior to the event. The administrator may require the sponsor to post a bond or other sufficient security to guarantee compliance with this section.

Sections 7-26 Certain Payment Exemptions for First Amendment Public Events

Persons engaged in public events conducted for the exercise of freedoms protected under the First Amendment are not required to pay for any insurance, fees, costs, or bond as otherwise may be required under Sections 7-21, 7-22, and 7-23.

Section 7-27 Appeals

The decision of the administrator is subject to review in the Superior Court of Orange County by proceedings in the nature of certiorari. Any petition for writ of certiorari shall be filed with the Clerk of Superior Court within 30 days after the applicant has received notice of the decision. Unless good cause exists to contest a petition for writ of certiorari, the Town shall stipulate to certiorari no later than five business days after the petitioner requests such stipulation. The Town shall transmit the record to the court no later than five business days after receiving the order allowing certiorari. Notwithstanding the provisions of any local rule of the reviewing court that allows for a longer time period, the Town shall file its brief within 15 days after it is served with the petitioner's brief. If the petitioner serves their brief by mail, the Town shall add three days to this time limit in accordance with North Carolina General Statute 1A-1, Rule 5. If the local rule is subsequently amended to provide for a shorter time period for the filing of any brief, then the shorter time shall control.

Article IV

MISCELLANEOUS

Section 7-31 Damaging Street Surfaces, Street Signs, Other Facilities

(a) No person may intentionally mutilate, deface, remove, damage, or in any manner interfere with any of the street name signs, traffic control signs and devices, and other signs erected by any public body.

(b) No person may drag, run, or cause to be dragged or run upon any public street, any harrow, or other implement, machine or tool likely to injure or cut the surface of such street.

(c) No person may intentionally damage, injure, obstruct or otherwise interfere with any street, sidewalk, bridge, culvert, ditch, or drain owned or maintained by the Town.

Section 7-32 House and Building Numbers

(a) The owner of every house and every principal building shall display or cause to be displayed on the front thereof, or on the grounds in a position easily observed from the street, the number assigned to the owner's house or building by the administrator. The owner shall comply with this section within thirty (30) days after receiving a written notice from the administrator requesting the owner to do so and specifying the house or building number assigned.

(b) No person may display or cause to be displayed on any house or building any number other than the number assigned by the administrator.

(c) No person may remove, obliterate or destroy any number displayed in accordance with subsection (a).

(d) The administrator shall assign house and building numbers in accordance with a house and building numbering system that adheres as closely as possible to the principles set forth in this section. However, matters of interpretation regarding the following principles shall rest within the sound discretion of the administrator.

(1) The Town shall be divided by two axes. The north-south axis shall be Greensboro Street and Hillsborough Road, and the east-west axis shall be Main Street through Jones Ferry Road.

(2) Numbers shall run in an ascending order from east to west on streets to the west of the north-south axis. Numbers shall run in an ascending order from west to east on streets to the east of the north-south axis. Numbers shall run in ascending order from south to north on streets to the north of the east-west axis. Numbers shall run in ascending order from north to south on streets to the south of the east-west axis.

(3) All dead-end streets shall begin numbering at the open end no matter which compass direction they follow.

(4) Streets with both ends opening from the same direction shall begin numbering on the end closest to the axis.

(5) Streets which do not run north-south or east-west shall begin numbering at the end closest to the axis.

(6) Streets which connect to both axes shall begin numbering on the end coming off the east-west axis.

(7) Each block shall begin a new number series, for examples, 101, 201, or 301.

(8) Numbers shall remain unassigned in order to accommodate future development and block numbering that anticipates additional development shall be reserved in undeveloped areas.

Section 7-33 Administrator

As used in this chapter, the term "administrator" refers to the public works director or any other person designated by the Town Manager to perform the responsibilities assigned to the administrator by this chapter.

Section 7-34 Penalties and Remedies *(amend. 10/11/22)*

(a) A violation of this Article IV shall subject the violator to a civil penalty of \$25.00. If a person fails to pay this penalty within ten days after being cited for a violation, the Town may seek to recover the penalty by filing a civil action in the nature of debt.

(b) The Town may seek to enforce this chapter through any appropriate equitable action.

(c) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

(d) The Town may seek to enforce this chapter by using any one or any combination of the foregoing remedies.

Section 7-35 Reserved

Article V

CARE AND PROTECTION OF TREES

Section 7-36 Purpose, Intent and Scope of Article

(a) The Council finds that:

(1) Trees are proven producers of oxygen, a necessary element for the survival of people;

(2) Trees appreciably reduce the ever-increasing environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air that we breathe;

(3) Trees precipitate dust and other particulate air-borne pollutants from the air and create temporary conditions of narcosis allowing air-borne pollutants to settle to the ground;

(4) Trees transpire considerable amounts of water each day and thereby purify the air much like the air-washer devices used on commercial air conditioning systems;

(5) Trees have an important role in neutralizing waste water passing through the ground from the surface to ground water tables and lower aquifers;

(6) Trees through their root systems stabilize the ground water tables and play an important effective part in community-wide soil conservation, erosion control and flood control;

(7) Trees are an invaluable physical, aesthetic and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare, and breaking the monotony of human developments on the land; and

(8) The need for trees is particularly acute and trees are especially valuable along public rights-of-way and other Town-owned property.

(b) Based upon the findings set forth in subsection (a), the Council declares that it is not only desirable but essential to the health, safety and welfare of all the citizens of the Town of Carrboro, present and future, to protect present trees and to encourage the propagation of trees along the public rights-of-way and other Town-owned property, and the provisions of this article are designed to accomplish this objective.

(c) The provisions of this article apply to all areas within 30 feet of the center line of a public street, or to the right-of-way line, whichever embraces more area, as well as all other Town-

owned property. For purposes of this article, these areas shall be referred to collectively as "public property."

Section 7-37 Tree Board

(a) The Carrboro Appearance Commission shall henceforth also act and function as the Carrboro Tree Board.

(b) The Tree Board shall be empowered to:

(1) Develop and administer a comprehensive tree program;

(2) Recommend needed ordinances to properly regulate tree planting, maintenance and removal;

(3) Develop and prepare a long-range management plan that deals with existing and planned or proposed trees and shrubs on public property (master street tree plan) to be adopted by the Town Council;

(4) Develop and implement annual work plans (annual street tree plan) to be adopted by the Town Council; and

(5) Designate one of its members to advise and assist the administrator in implementing this article.

Section 7-38 Permits

(a) No person, without a written permit issued by the administrator, may plant, cut down, remove, destroy, severely prune (including the root system) or treat with a view to its preservation from disease or insects, any tree or shrub on public property.

(b) No person, without a written permit issued by the administrator, may place or maintain upon the ground on public property any stone, cement or other impervious matter or substance in such a manner as to obstruct the free access of air and water to the roots of any tree or shrub in such place.

(c) The administrator shall issue the permit required by subsections (a) or (b) within 10 days of a request for such permit unless the administrator finds that:

(1) With respect to the planting of a tree or shrub, the proposed planting is inconsistent with the master street tree plan or the annual street tree plan;

(2) With respect to the proposed treatment of a tree or shrub, the proposed treatment poses a danger to other trees or shrubs on public property or a danger to the public health or safety;

(3) With respect to the cutting down or removal of trees or shrubs, such actions would be inconsistent with the master street tree plan or the annual street tree plan and other means are reasonably available to achieve the legitimate objectives sought to be accomplished by the removal of such trees or shrubs.

(4) With respect to the placement of stone, cement or other impervious matter around trees or shrubs, such actions would be inconsistent with the master street tree plan or the annual street tree plan by posing a substantial danger to existing or proposed trees or shrubs, and other means that are reasonably available to achieve the legitimate sought to be accomplished by such actions.

Section 7-39 Additional Measures to Protect Trees and Shrubs

(a) It shall be the responsibility of the person in charge of the erection, repair, alteration or removal of any building or structure to place a guard around any tree on public property so as to prevent injury to such tree. As provided in Section 7-38, if such severe pruning or removal of any tree is necessary, a written permit shall be obtained.

(b) No person may attach any rope or wire to any tree or shrub or to the guard or stake intended for the protection of such tree or shrub on public property, except for the purpose of protecting such tree or shrub or the public.

(c) Trees or shrubs that are diseased or that have an infectious condition that endanger other trees or shrubs on public property or that otherwise pose a danger to the public health or safety shall be removed by the owners of the property on which such trees are located within 10 days after being notified by the administrator of such condition. Such trees are declared to be a public nuisance, and if not corrected by the responsible person within the time specified herein, the Town may summarily abate any such nuisance that is located on Town property on a public right-of-way.

(d) Any person aggrieved may appeal any decision of the administrator to the Board of Adjustment in accordance with the procedures specified for appeals set forth in Chapter 15 of the Town Code.