

CHAPTER 7

STREETS AND SIDEWALKS

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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 his 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 his 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 his 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(Amend. 11/24/15)

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 (Amend. 3/11/80)

(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 through 7-10 Reserved

Article II

DRIVEWAYS AND EXCAVATIONS

Section 7-11 Driveways

(a) Except as otherwise provided in this section, no person may open, construct, alter, or relocate any driveway across any public sidewalk or into any street, or cut any curb for such purpose without having obtained a written permit from the administrator.

(b) 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.

(c) The administrator shall review the driveway construction and design plans and shall issue the permit unless he find 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.

(d) 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.

(e) 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.

(f) 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 7-12 Excavations

(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 a permit pursuant to this section, the administrator shall determine that the applicant has made arrangements 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. (Amend. 8/22/95)

Section 7-13 Town Indemnified

Any person obtaining a permit authorized by Sections 7-11 (Driveways) and 7-12 (Excavations) 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.

Sections 7-14 and 7-15 Reserved

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 96 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 insure 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, and Frangelism in the Park, the Kidney Kare 5K, the Open Streets Events, the St. Paul AME 5K, and the Not so Normal Half Marathon.

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 offices 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 727 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 his or her 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 his 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 him 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 numbers 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 numbers on the end coming off the east-west axis.
- (7) East 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 numbers shall be assigned to 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 manager to perform the responsibilities assigned to the administrator by this chapter.

Section 7-34 Penalties and Remedies

(a) A violation of any of the following sections shall constitute a misdemeanor, punishable as provided in G.S. 14-4: All sections of Article I and Article II; Section 7-17, 7-23(d), 7-24(c), and 7-25 of Article III; and 7-38(a), 7-389b) and 7-39 of Article V. (Amend. 7/24/79, 12/9/80)

(b) A violation of any of the sections listed in subsection (a) as well as a violation of Section 7-32 shall also subject the offender 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. (Amend. 12/9/80)

(c) The town may seek to enforce this chapter through any appropriate equitable action.

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

(e) 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 Board finds that:
- (1) Trees are proven producers of oxygen, a necessary element for the survival of men and women;
 - (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 counter point 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 board 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 board of aldermen;
- (4) Develop and implement annual work plans (annual street tree plan) to be adopted by the board of aldermen; 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 he/she 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.