

**AN ORDINANCE TO ADD REGULATIONS OF THE  
TOWN OF HUNTERSVILLE CODE OF ORDINANCE TO TITLE V: PUBLIC WORKS  
AND TO MOVE, RETITLE AND RECODIFY TITLE IX: GENERAL REGULATIONS,  
CHAPTER 90, STREETS AND SIDEWALKS, TO TITLE V: PUBLIC WORKS**

*Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that the Code of Ordinance is hereby amended, as follows:*

Title V: PUBLIC WORKS, Chapter 50: STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES

Articles and Sections:

Article I: Public Right-of-Way Cuts and Encroachment

50.01 Definitions

50.02 Permit Required

50.03 Permit Application and Fee

50.04 Right-of-Way Maintenance

50.05 Failure to Pay Degradation Fee

Article II: Public Street and Sidewalk Use and Closures

50.10 Street and Sidewalk Closure

50.11 Use of Public Streets and Sidewalks

Article III: Driveway Connections

50.20 Compliance with Construction Requirements

50.21 Permit Expiration and Revocation

50.22 Driveway Connection Fee

50.23 Failure to Obtain Driveway Permit

50.24 Bond

Article IV: Obstructions

50.30 Obstruction of Storm Water Conveyance

50.31 Obstruction of Streets and Sidewalks

50.32 Obstructions by Foliage

50.33 Deposit of Trash, Dirt, Debris or Liquids on Streets and Sidewalks; Duties of Owners

50.34 Removal of Dirt and Debris on Streets and Sidewalks as a Result of Construction

50.35 Permanent Obstructions

Article V: Sight Visibility

50.40 Definitions

50.41 Sight Triangle

50.99 Penalty

## **CHAPTER 50: STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES**

### ***Statutory reference:***

*Responsibility for streets inside municipalities, see G.S. § 136-66.1; authority to establish and control streets and sidewalks, see G.S. § 160A-296.*

### ***Cross reference:***

*Definitions generally, see §10.05; Stopping, standing, and parking definitions, see §71.09.*

## **ARTICLE I. PUBLIC RIGHT-OF-WAY CUTS AND ENCROACHMENT**

### ***Statutory reference:***

*Authority to town to regulate digging in the streets and sidewalks, see G.S. § 160A-296(a)(6).*

### **§ 50.01 DEFINITIONS.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in the Town's adopted Subdivision Ordinance, except where a different meaning is clearly indicated:

#### **STREET RIGHT-OF-WAY.**

**ENCROACHMENT.** Any work completed within the public right-of-way.

**DEGRADATION FEE.** Payment amount set forth in the adopted fee schedule for pavement cuts.

### **§ 50.02 PERMIT REQUIRED.**

(A) No person shall cut into any street, sidewalk, square or other public right-of-way for any purpose, including but not limited to installation of and repair to utility systems, or disturb the right-of-way by removing any dirt, sod, sand or paving material therefrom or otherwise disturb the right-of-way, without first obtaining an encroachment permit from the Director of Engineering and Public Works.

(B) It shall be unlawful for any person to plant or set out any tree, vine, shrub, bush, or flowers or cause or authorize any person to plant or set out any tree, vine, shrub, bush, or flowers in or upon any public place without first obtaining permission from the Town and without complying in all respects with all conditions set out in connection with any such permission granted by the Town.

### **§ 50.03 PERMIT APPLICATION AND FEE.**

Each application for an encroachment permit shall be accompanied by the required degradation fee as set forth in the Town's fee schedule.

#### **§ 50.04 RIGHT-OF-WAY MAINTENANCE.**

The Town is not responsible for damage to irrigation, plants, fencing, or any structures permitted for construction within the public right-of-way, while carrying out its construction and maintenance operations.

#### **§ 50.05 FAILURE TO PAY DEGRADATION FEE.**

Failure to comply with the right-of-way cuts and degradation fees, as laid out in the Town's fee schedule, prior to construction will result in a \$500 penalty in addition to the associated degradation fee.

## **ARTICLE II. PUBLIC STREET AND SIDEWALK USE AND CLOSURES**

### ***Statutory reference:***

*Authority to town to close any street permanently or temporarily, see G.S. § 160A-296(a)(4).*

*Authority to town to regulate use of public streets, sidewalks and bridges, see G.S. § 160A-296(a)(5).*

### ***Cross reference:***

*Parades, assemblies and picketing, see Ch. 91.*

#### **§ 50.10 STREET AND SIDEWALK CLOSURE.**

It shall be unlawful to close or block any public street or sidewalk without the permission of the Director of Engineering and Public Works. The Town is the sole entity which has the authority to close a public street or sidewalk as needed.

Penalty, see § 50.99

#### **§ 50.11 USE OF PUBLIC STREETS AND SIDEWALKS.**

No person shall use the Town's streets and sidewalks for purposes other than vehicular or pedestrian travel except where otherwise permitted by Town Ordinances. A permit must be

submitted and approved by the Chief of Police for parade, assembly and picketing uses. See Parades, Assemblies and Picketing, § 91.03.

Penalty, see § 50.99

## **ARTICLE III. DRIVEWAY CONNECTIONS**

### ***Statutory reference:***

*Authority to town to regulate curb cuts, see G.S. § 160A-307.*

### **§ 50.20 COMPLIANCE WITH CONSTRUCTION REQUIREMENTS.**

Except where otherwise governed and specified by the North Carolina Department of Transportation driveway entrance regulations, it shall be unlawful to construct, maintain, or use a driveway connecting to a public street except in accordance with the Town's driveway connection requirements and the terms and conditions of a valid and unrevoked driveway connection permit.

### **§ 50.21 PERMIT EXPIRATION AND REVOCATION.**

- (A) Construction of a driveway connection must be completed within six months after the issuance of a driveway connection permit. Failure to construct the driveway within the given time frame will result in the expiration of the permit and reapplication will be required.
- (B) Construction of a driveway connection under an expired driveway permit will result in a civil penalty of \$50 and require reapplication for a valid driveway permit. If a driveway permit is not granted after reapplication, the Town may require the permittee or property owner to deconstruct and restore the driveway, including replacing or repairing the sidewalk, both to its original condition. If the permittee or property owner does not deconstruct the driveway and replace or repair the sidewalk within a reasonable period of time, the Town may do so and charge the expense to the permittee or property owner.
- (C) A driveway permit may be revoked for failure to comply with the Town's driveway connection rules and regulations or the terms and conditions of a driveway connection permit. If a driveway permit is revoked, the Town may require the permittee or property owner to deconstruct and restore the driveway, including replacing or repairing the sidewalk. If the permittee or property owner does not deconstruct and restore the driveway and replace or repair the sidewalk within a reasonable period of time, the Town may do so and charge the expense to the permittee or property owner.

### **§ 50.22 DRIVEWAY CONNECTION FEE.**

Each application for a driveway permit shall be accompanied by the required permit fee as set forth in the Town's fee schedule.

### **§ 50.23 FAILURE TO OBTAIN DRIVEWAY PERMIT.**

If the Town discovers that a non-residential driveway has been constructed without a driveway permit, the Town may issue a civil penalty to the responsible party in the amount of \$250 for failing to comply with the proper processes for non-residential driveway construction and the necessary fee for a driveway permit. The Town will still inspect the constructed driveway and may require the permittee or property owner to fix or deconstruct and restore the driveway, including replacing or repairing the sidewalk, both to its original condition. If the permittee or property owner does not deconstruct and restore the driveway and replace or repair the sidewalk within a reasonable period of time, the Town may do so and charge the expense to the permittee or property owner.

### **§ 50.24 BOND.**

The Town may, in its sole discretion, authorize the issuance of a certificate of occupancy or authorize the use of a driveway connection prior to completion of all work required in a driveway permit by requiring the permittee to post a bond to ensure the completion of required work.

## **ARTICLE IV. OBSTRUCTIONS**

### ***Statutory reference:***

*Authority to town to keep public streets free from unnecessary obstructions, see G.S. § 160A-296(a)(2).*

### ***Cross reference:***

*Parades, assemblies and picketing, see Ch. 91; Nuisances, see Ch. 93.*

### **§ 50.30 OBSTRUCTION OF STORM WATER CONVEYANCE.**

(A) It shall be unlawful to obstruct or in any way interfere with any gutter, ditch, or other manmade or natural water drains located in the right-of-way or recorded storm

drainage easement. The Town may require the person who has placed or who maintains an obstruction in violation of this section to remove the obstruction and repair or restore the drain within a reasonable period of time, which shall be set in consideration of the harm or risk created by the obstruction and the effort and expense of removal. The Town may, at its option, remove an obstruction and charge the expense of the removal, restoration, and repair to the person who placed or maintained the obstruction.

- (B) It shall be unlawful to construct buildings, fences or any other structures which impede stormwater flow or system maintenance within a storm drainage easement. The Town may require the person who has placed or who maintains an obstruction in violation of this section to remove the obstruction within a reasonable period of time, which shall be set in consideration of the harm or risk created by the obstruction and the effort and expense of removal. The Town may, at its option, remove an obstruction and charge the expense of the removal, restoration, and repair to the person who placed or maintained the obstruction.

Penalty, see § 50.99

#### **§ 50.31 OBSTRUCTION OF STREETS AND SIDEWALKS.**

- (A) It shall be unlawful for any person to obstruct or impede travel in the streets or sidewalks of the Town or to place or allow to exist any natural or artificial object in a Town right-of-way that could create an unsafe condition for pedestrians or motorists, as determined in the sole discretion of the Director of Engineering and Public Works, or his designee.
- (B) It shall be unlawful for any person to place or maintain any wood, coal, brick, stone, boxes, barrels, rubbish, leaves, trash, snow or other obstruction on any of the sidewalks or streets, or public right-of-ways of the Town; provided, this section shall not apply when the proper permit has been obtained for same, in which case such owner or building, contractor or permittee shall keep displayed and maintained proper and sufficient notice or warning, including barricades and lights, on such obstruction to warn the traveling public of the existence and danger of such obstructions.

Penalty, see § 50.99

#### **§ 50.32 OBSTRUCTIONS BY FOLIAGE.**

- (A) It shall be unlawful for any person to allow or tolerate the limbs of trees, vines, bushes, shrubbery, flowers or other growth to project into or overhang a public

sidewalk or other public way at a distance closer than seven feet above the surface of such sidewalk or other public way or in any manner so as to interfere with the free and safe passage of the public way or sidewalk by pedestrians or vehicular traffic.

(B) The Director of Engineering and Public Works, or his designee, shall notify all persons having:

- (1) Trees in front of lots to have them properly trimmed when deemed necessary.
- (2) Dead or dying trees or parts thereon on any lot or land adjacent to any public street or public place which may fall onto the public street, right-of way or place; or may pose a threat to the safety of the public to have them removed.

Penalty, see § 50.99

**§ 50.33 DEPOSIT OF TRASH, DIRT, DEBRIS OR LIQUIDS ON STREETS AND SIDEWALKS; DUTIES OF OWNERS.**

- (A) It shall be unlawful for the owner or occupant of any lot or building to discharge or cause to be discharged water or liquid of any kind upon streets, sidewalks or alleys, sufficient to cause these public rights-of-way to become hazardous.
- (B) It shall be unlawful for any person to sweep or throw trash, dirt or debris upon any public right-of-way.
- (C) All owners of property abutting sidewalks or streets shall be required, where necessary, to construct a barricade to prevent dirt, debris or other material from washing up on the public access.
- (D) This does not include yard debris placed curbside per the Town's yard waste collection policy.

Penalty, see § 50.99

**§ 50.34 REMOVAL OF DIRT AND DEBRIS ON STREETS AND SIDEWALKS AS A RESULT OF CONSTRUCTION**

- (A) In the event that dirt, mud, construction materials or other debris shall be deposited upon any street or sidewalk as a result of a construction project in progress, the contractor in charge of the project shall be required to remove the debris.
- (B) The failure of the contractor to remove debris set forth in division (A) of this section, on a daily basis, constitutes a violation subject to the penalty set forth in § 50.99, and each day which said debris is not removed shall constitute a separate and additional violation.

Penalty, see § 50.99

### **§ 50.35 PERMANENT OBSTRUCTIONS.**

No person shall permanently leave or install any of the following obstructions within the public right-of-way without first obtaining an encroachment permit from the Director of Engineering and Public Works:

- (1) Basketball goal(s);
- (2) Soccer or hockey goal(s);
- (3) Driveway ramp(s), in any form, which is meant to provide an inclined transition from the street to the driveway;
- (4) Dumpster(s);
- (5) Trailer(s), in any form;
- (6) Signs;
- (7) Fencing.
- (8) Any object deemed as an obstruction by the Director of Engineering and Public Works.

Penalty, see § 50.99

## **ARTICLE V. SIGHT VISIBILITY**

### ***Cross reference:***

*Town of Huntersville Subdivision Ordinance, Section 8.9.*

### **§ 50.40 DEFINITIONS.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in the Town's adopted Subdivision Ordinance, except where the context clearly indicates a different meaning:

#### ***COLLECTOR.***



***LOCAL STREET.***

***THOROUGHFARE.***

**§ 50.41 SIGHT TRIANGLE.**

- (A) It shall be unlawful for a person owning and/or having the legal control of any land within the corporate limits to maintain or permit upon any such land any fence, sign, billboard, shrubbery, bush, tree, mailbox or other object, or any combination thereof, which obstructs the view of motorists using any street or the approach to any street intersection so as to constitute a traffic hazard or a condition dangerous to the public safety.
- (B) The restrictions set forth in this section shall apply to each of the following triangles of land:
- (1) For intersections with collectors or thoroughfares, that triangle bounded by the right-of-way lines measured thirty-five feet from the point of their intersection in each direction and the diagonal line connecting the further ends of such thirty-five-foot lengths.
  - (2) For intersection with a local street, that triangle bounded by the right-of-way lines measured fifteen feet from the point of their intersection in each direction and the diagonal line connecting the further ends of such fifteen-foot lengths.
  - (3) For any intersection in question, that triangle represented on the recorded plat.
- (C) Within such triangles, it shall be unlawful to install, set out or maintain, or allow the installation, setting out, or maintenance of, any sign, hedge, shrubbery, tree, natural growth, earthen berm, or other object of any kind which obstructs cross visibility at a level between 30 inches and 72 inches above the level of the center of the adjacent intersection.

Penalty, see § 50.99

**§ 50.99 PENALTY.**

- (A) Any person who violates any of the provisions of this Chapter shall be guilty of a Class 3 Misdemeanor as provided in G.S. §14-4 and, upon conviction, shall be subject to a maximum fine of \$50 or imprisonment, not to exceed 20 days, or both.
- (B) A violation of this Chapter shall subject the violator to issuance of a citation for a civil penalty in the amount of \$50 for each such violation, unless otherwise provided herein. A citation remaining unpaid to the Town of Huntersville after 15 days from

the date of issuance shall subject the violator to a civil penalty, which may be recovered by the Town in a civil action. A violation, which is a continuing violation, shall subject the violator to separate citation for each day that the violation continues.

***Section 2. Be it ordained that Ordinance Chapter 90, Streets and Sidewalks is now removed, renumbered and recodified as Ordinance Chapter 50, Article IV, Section 50.33 and 50.34.***

***Section 3. That this Ordinance shall become effective upon adoption this \_\_\_\_ day of \_\_\_\_\_, 2016.***

APPROVED AS TO FORM:

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Robert B. Blythe, Town Attorney