

CHAPTER 7

STREETS AND SIDEWALKS

Article I – Obstructions

- Section 7-1 Obstructions Prohibited
- Section 7-2 Overhanging or Protruding Trees, Shrubs, Fences, et cetera
- Section 7-3 Drainage Related Interference with Sidewalks
- Section 7-4 Warning Required for Obstruction
- Section 7-5 Depositing Injurious Materials on Street
- Section 7-6 Snow and Ice Removal
- Sections 7-7 through 7-10 Reserved

Article II – Driveways and Excavations

- Section 7-11 Driveways
- Section 7-12 Excavations
- Section 7-13 Town Indemnified
- Sections 7-14 Curb Cut Ordinance
- Section 7-15 Reserved

Article III – Street Events

- Section 7-16 Activities Covered
- Section 7-17 Permit Required
- Section 7-18 Permit Application
- Section 7-19 Staff Review
- Section 7-20 Expedited Permit Procedure
- Section 7-21 Insurance
- Section 7-22 Standards for Issuance of Permit
- Section 7-24 Sponsor Responsible for Cleanup
- Sections 7-25 through 7-30 Reserved

Article IV – Miscellaneous

- Section 7-31 Damaging Street Surfaces, Street Signs, Other Facilities
- Section 7-32 Reserved
- Section 7-33 Administrator
- Section 7-34 Penalties and Remedies

Article I

OBSTRUCTIONS

Section 7-1 Obstructions 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, but is not limited to, good, 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; and
 - 2) The obstruction will take place only during daylight hours; and
 - 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 only be partially obstructed in a manner that does not seriously inconvenience the public or threaten the public safety.
- c) If a permit is issued pursuant to subsection (b), no person may cause, suffer, or permit the operation of a sidewalk sale in violation of the conditions set forth in subdivisions (b) (1) through (4) or any other conditions attached to the permit.
- d) Subsection (a) 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.
- e) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

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

- 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 three days after being notified of the violation by the administrator, the town may summarily abate such nuisance.
- d) Violation of this section is punishable by a civil penalty not to exceed \$50.00, with each day that the condition remains unabated after first notice constituting a separate violation.

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 from such gutters, ditches, ducts, or drain pipes empties onto or 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.
- c) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

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.
- c) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

Section 7-5 Depositing Injurious Material 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.

- c) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

Section 7-6 Snow and Ice Removal.

Every occupant of a store building, in front of which the sidewalk is paved with stone, brick, asphalt, or cement, shall remove snow, ice, or other similar obstruction from such sidewalk at the earliest possible time and as soon as weather permits.

Violation of this section is punishable by a civil penalty not to exceed \$50.00, with each day that the condition remains unabated after first notice constituting a separate violation.

Sections 7-7 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 finds the driveway, if constructed as proposed will substantially interfere with or pose a danger to (i) persons using the street or sidewalk intersected by the driveway or (ii) public facilities (including utility poles, traffic signal standards, et cetera), or will fail to comply with any of the provisions of this section.
- d) No driveway may be constructed closer than three feet to a fire hydrant or catch basin or closer than thirty 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 material impaired.

- f) This section shall not apply to driveways that open onto state-maintained streets to the extent that the state has approved the driveway.
- g) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

Section 7-12 Excavations.

- a) Except 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 for putting the street or sidewalk where any excavation is made in as good 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) Without limiting the generality of the foregoing, this section applies to any utility operating within the town. However, 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 hours before the work begins.
- e) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

Section 7-13 Town Indemnified.

Any person obtaining a permit authorized by Section 7-11 (Driveways) or 7-12 (Excavations) agrees as a condition of the permit to indemnify the town for 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 operation conducted by the permit recipient pursuant to the permit.

Section 7-14 Curb Cut Ordinance.

1. Purpose

It is recognized that driveway connections onto a road serve to increase traffic flow and volume on that road. Increased traffic flow, if left unchecked, can lead to traffic congestion, increased travel times, and to an increase in the number of accidents involving motorists, cyclists, and/or pedestrians. The purpose of this ordinance, per G.S. 160A-307, is therefore to promote this orderly flow of traffic on streets through the

Town of McAdenville and to provide for increased safety for pedestrians, cyclists, and motorists alike, by providing street curb-cuts and other associated road improvements through the issuance of driveway permits.

2. Administration

This ordinance shall be administered by the Town Clerk or designee appointed by the Town Council (hereafter referred to as the “Administrator”).

3. Applicability

- a) This ordinance shall be applicable within the corporate limits of the Town of McAdenville.
- b) This ordinance shall be applicable when a building or parcel of land is proposed to be used or occupied without any associated building construction or alteration; or whenever a Zoning Permit, as stipulated in the Town of McAdenville Zoning Ordinance, is required. Adherence to this ordinance, however, shall not be required for any of the following:
 - i) The initial development of a single-family or two-family dwelling structure, along with related accessory structures, on a recorded lot.
 - ii) Initial construction or expansion of residential accessory structures.
 - iii) Initial construction of non-residential accessory structures which are less than five-hundred (500) square feet in area; or an expansion of a non-residential accessory structure by less than five-hundred (500) square feet.
 - iii) An enlargement of an existing principal non-residential structure by less than twenty (20) percent of its existing gross floor area, provided such enlargement does not necessitate the creation of additional off-street parking or loading spaces as may be required by the Town of McAdenville Zoning Ordinance.
 - iv) A change in principal use which would not necessitate the creation of additional off-street parking and/or loading spaces.

4. Driveway Permits

- a) An application for a driveway permit may be made (and approved by the Administrator) simultaneously with a zoning permit application.
- b) Having received and reviewed a complete application, the Administrator shall have the authority to (i) approve the driveway permit without conditions (ii) where applicable, approve the permit in conformity with any other conditions previously

placed on the property in question by the Town of McAdenville (iii) recommended to the Town Council that the permit be approved subject to certain fair and reasonable conditions be attached, or (iv) deny the application. Any such determination shall be made and/or the application transferred to the Town Council for action within forty-five (45) days of receipt of the application. The application will be deemed approved as submitted if the application is not transferred to the Town Council within said forty-five (45) day period,

- c) The Administrator or the Town Council may only approve the driveway permit application having first determined that the proposed development, land improvement, or use of property meets each of the following findings:
 - i. The proposed use of development will not serve to impede the flow of traffic through the Town of McAdenville.
 - ii. The proposed use or development will not be a safety deterrent for pedestrians, cyclists, and motorists.

The Administrator or Town Council may deny an application if each of the above findings are not found in the affirmative. Any conditions placed on the driveway permit by the Town Council shall be in support of an in harmony with each of the above referenced findings of fact.

- d) Any decision of the Administrator regarding the driveway permit may be appealed to the Town Council provided such appeal is made in writing no greater than thirty (30) days of the date of such decision.

5. Penalties

Violation of this section by failure to obtain proper permitting or adhere to the terms of a valid permit is punishable by a civil penalty not to exceed \$50.00, with each day that the condition remains unabated after first notice constituting a separate violation.

Section 7-15 Reserved.

Article III

STREET EVENTS

Section 7-16 Activities Covered.

This article applies to all street fairs, festivals, carnivals, parades, marches, rallies, demonstrations, and other activities or public events that require the temporary closing or

obstruction of all or a portion of any street or other public right-of-way or substantially hinders or prevents the normal flow of vehicular or pedestrian traffic along any street or other public right-of-way. Any such activity covered by this article shall hereafter be referred to as “the event.”

Section 7-17 Permit Required.

No person may run, operate or sponsor any event in any public street or right-of-way without a permit obtained from the Council in accordance with this Article. Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4 by cost of court and a fine of greater than \$50.00 but not more than \$500.00.

Section 7-18 Permit Application.

Application for the permit authorized by this article shall be submitted on a form provided by the administrator and shall contain the following information:

- 1) Name, address, and telephone number of the person, organization or entity seeking to conduct or sponsor the event;
- 2) Name, address, and telephone number of the individual in charge of the event;
- 3) The proposed date and time period when the event will be conducted;
- 4) A sketch-map showing:
 - a. The area where the event is to take place.
 - b. Any street to be closed or obstructed.
 - c. Any barriers or traffic control devices that will be erected.
 - d. The location of any concession stand, booth, or other temporary structures or facilities.
 - e. The location of proposed fences, stands, platforms, benches, or bleachers.
- 5) The approximate number of people expected to attend the 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 Staff Review.

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

Section 7-20 Expedited Permit Procedures.

When the principal purpose of an event is to exercise a freedom protected under the First Amendment to the United States Constitution, the Council concludes that an expedited permit

approval process is warranted. Therefore, the Council shall act on permit requests for such events as soon as an emergency meeting can reasonably be called.

Section 7-21 Insurance.

The Council may require as a condition precedent or subsequent to issuance of the permit that the applicant obtained 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 event. If such a policy is required, the town shall be named as an additional insure^[BD1] on the policy. The policy limits of such insurance shall be not less than:

Property damage	\$50,000 for each occurrence
Bodily injury or death	\$100,000 for person \$300,000 for each <u>occurrence</u> ^[BD2] ^[BD3]

Section 7-22 Standards for Issuance of Permit^[BD4].

- a) **The Administrator shall issue the permit authorizing the event unless he/she finds that:**
- 1) Conduct of the event will require the assignment of so many police officers that the remainder of the town cannot adequately be protected; or
 - 2) The 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 event will cause a severe hardship on persons occupying property adjacent to the site, location, or route of the event as a result of the denial of access to property or for other substantial reasons; or
 - 5) The 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.
- c) If the Administrator finds that he/she cannot issue the permit for reasons specified in subsection (a), he/she may request the applicant to modify its application to remove any objections to the issuance of the permit. Alternatively, the applicant can appeal the Administrator's decision to the Town Council. The Council shall have the authority to stay, overturn or amend the decision of the Administrator.
- d) Any 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 hereto.

Section 7-23 Street Closings.

- a) If the Council finds that the permit should be issued and that, to conduct the event, it is necessary to close a street or to reroute traffic, it may pass a resolution authorizing this to be done. No such resolution shall be passed affecting streets that are part of the state 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 too limited in some way. The resolution may 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 7-24 Sponsor Responsible for Cleanup.

The sponsor of the 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 Council may require the sponsor to post a bond or other sufficient security to guarantee compliance with this section. Failure of an event sponsor to adhere to the requirements of this section is punishable by a civil penalty of up to \$500.00 or the costs the Town incurs in cleanup efforts, whichever is greater.

Sections 7-25 through 7-30 Reserved.

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.
- d) Violation of this section is punishable as a misdemeanor pursuant to N.C.G.S. § 14-4.

Section 7-32 Reserved.

Section 7-33 Administrator.

As used in this chapter, the term “administrator” refers to the person designated by the Council to perform the responsibilities assigned to the administration of this chapter.