

**Title V Chapter 54
ROADWAYS**

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GENERAL REGULATIONS

§54.01 Authority

- (A) North Carolina General Statute § 160A-296, Establishment and Control of Streets; Center and Edge Lines provides that a city shall have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits except to the extent that authority and control over certain streets and bridges is vested in the Board of Transportation.
- (B) General authority and control includes but is not limited to all of the following:
- (1) To keep the public streets, sidewalks, alleys, and bridges in proper repair.
 - (2) To keep the public streets, sidewalks, alleys, and bridges open for travel and free from unnecessary obstructions.
 - (3) To open new streets and alleys, and to widen, extend, pave, clean, and otherwise improve existing streets, sidewalks, alleys, and bridges. The power to acquire the necessary land therefor by dedication and acceptance, purchase, or eminent domain.
 - (4) To close any street or alley either permanently or temporarily.
 - (5) To regulate the use of the public streets, sidewalks, alleys, and bridges.
 - (6) To regulate, license, and prohibit digging in the streets, sidewalks, or alleys, or placing therein or thereon any pipes, poles, wires, fixtures, or appliances of any kind either on, above, or below the surface.
 - (7) To the extent a municipality is authorized under applicable law to impose a fee or charge with respect to activities conducted in its rights-of-way, the fee or charge must apply uniformly and on a competitively neutral and nondiscriminatory basis to all comparable activities by similarly situated users of the rights-of-way.
 - (8) To provide for lighting the streets, alleys, and bridges of the city.
 - (9) To grant easements in street rights-of-way as permitted by G.S. 160A-273.

§54.02 Definitions:

- (A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- Easement:** That portion of the roadway that is located to either side of a street/road and generally used for utility installations or drainage.
- Roadway:** The strip of land over which a road/street passes and including any easements on either side (commonly the roadway will be 60 feet wide with an approximately 20 foot surfaced area in the approximate center for vehicular traffic). Roadways that are accepted into the Town's system are public property.
- Road or Street:** That portion of the roadway surfaced or paved to make it more suitable for vehicular traffic.

§54.03 Permits Required

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- (A) No person shall make any excavation or opening or dig a ditch, trench, tunnel or hole in, along, across or under any street, sidewalk or other public place for the purpose of laying or placing therein any pipe, wires or poles or for any other purpose unless a written permit has been issued by the town.
- (B) No sidewalk or structure shall be built on public property by an individual, firm or corporation of any brick, wood or other material without a written permit from the town. (Ord. 19.80, passed ---) Penalty, for performing work without a permit is \$50.00 and each day counts as a separate infraction; in addition to any penalty, the responsible person(s) shall be responsible for all costs including legal fees and court costs incurred by the Town should the Town be required to remove the structure see § 10.99
- (1) All persons desiring a permit, to make an opening in any street, sidewalk or easement shall make a written application.
- (2) This application shall show the location of the proposed opening, the purpose and the approximate number of square yards of surface to be cut. [Ord. 19.80, passed--]
- (C) Construction or heavy vehicle traffic through neighborhoods/developments unassociated with the activity shall be avoided due to potential for damage to Town roads and/or for public safety. Such traffic includes, but is not limited to:
- (1) Construction equipment.
- (2) Logging vehicles.
- (3) Demolition equipment.
- If such traffic is unavoidable, a written permit shall be obtained from the Town. Penalty, for directing such traffic through an unassociated development or subdivision without a permit is \$50.00 and each day counts as a separate infraction; see § 10.99.
- (D) No person shall operate any equipment on any street if such equipment is not intended for street use and is likely to cause damage to such street, obstruct traffic or be a traffic hazard. unless a written permit has been issued by the town. Failure to obtain a permit, in addition to fines or penalties, violators of this section shall be required to repair any damage. This includes, but is not limited to;
- (1) Equipment with steel cheated treads.
- (2) Overweight/oversized vehicles.
- (3) House moving.
- (4) (Ord. 19.80, passed ---) Penalty for performing work without a permit is \$50.00 and each day counts as a separate infraction, see § 10.99
- (E) Exclusions to permit requirement are:
- (1) Owners or occupants of property abutting on such rights-of-way may install a mailbox and newspaper delivery receptacle on such rights-of-way.
- (2) Contractors with variable building permits where the activity to be performed on the Town's easement is specifically shown as a component of the permit (e.g. residential building permit showing the location and size of driveway cuts).
- [Ord. 19.80, passed --] Penalty for performing work without a permit is \$50.00 and each day counts as a separate infraction, see § 10.99.
- (F) Any person obtaining a permit, agrees, as a condition of the issuance of the permit, to indemnify and hold harmless the town against any claims or expenses, including attorney's fees for bodily injury or property damage for accidents or occurrences

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arising out of the person's operations, excluding only the liability of the town for its sole negligence except in connection with general supervision of work performed by the person.

[Ord. 19.80, passed--]

§54.04 -§ 54.19 reserved

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OBSTRUCTION AND DAMAGE

§54.20 Hazardous Conditions

- (A) It shall be unlawful for any person, firm or corporation who obtains a permit under the sections of this chapter to do any excavation of any kind which may create or cause a dangerous condition in or near any street, alley, sidewalk or public place of the town without placing and maintaining proper guard rails.
- (1) Excavations less than 30" in depth: signal lights or other warnings sufficient to warn the public of the excavation or work, and to protect all persons using reasonable care from injuries.
 - (2) Excavations 30" in depth or greater: Guard rails, fence or barricade 42"-from the ground and signal lights or other warnings sufficient to warn the public of the excavation or work, and to protect all persons using reasonable care from injuries.
- (B) Penalty for performing work without suitable guarding or installing adequate warning systems/devices is \$200.00 and each day counts as a separate infraction. In addition to any penalty, the Town may erect suitable warning devices/systems and the responsible person, firm or corporation shall be required to pay full cost of all time and materials expended by the Town. see § 10.99[Ord. 19.80, passed ---]

§54.21 Repair

- (A) When any part of any street, sidewalk, alley or other public place of the town is torn up or dug up for any purpose, the person making the excavation or opening shall have the duty of refilling the excavation or opening, and the refilling shall be done in accordance with the standards and specifications issued by the Building Inspector but, at minimum shall require the restoration of original grade, surface and/or vegetative cover. (Ord. 19.80, passed --)
- (B) Failure to repair damage or excavations shall have a penalty of \$100.00. Each day shall count as a separate infraction- see § 10.99.

§54.22 Drainage Obstruction

- (A) It shall be unlawful for any person to damage, deface, or cause to malfunction any bridge, culvert, ditch, drain, or other property owned or used by the town, or to obstruct any culvert, ditch, or drain so as to prevent the free flow of water over, or under the streets of the town or cause any street to be inundated.
- (B) Penalty, \$200.00 and each day counts as a separate infraction. In addition to any penalty, the Town may repair/clear such damage or malfunction and the responsible person, firm or corporation shall be required to pay full cost of all time and materials expended by the Town. see § 10.99.
(Ord. 19.80; passed--)

§54.23 Vandalism

- (A) It shall be unlawful for any person to damage, deface, move or otherwise tamper with any sign, sign posts, street light, traffic signal or other municipal property on the streets and sidewalks of the town.
- (B) The town employees may do so in the performance of their duties. (Ord. 19.80; passed --) Penalty, \$200.00 In addition to any penalty, the Town may repair/correct such damage and the responsible person, firm or corporation shall be required to pay full cost of all time and materials expended by the Town.see § 10.99

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§54.24 Roadway Obstruction

- (A) It shall be unlawful for any person to place or permit to be placed any building supplies or other materials and objects on the roadways or streets of the town.
- (B) Penalty, \$100.00 In addition to any penalty, the Town may remove the obstruction and the responsible person, firm or corporation shall be required to pay full cost of all time and materials expended by the Town see § 10.99
(Ord. 19.80; passed --)

§54.25 Use of Right-of Way

- (A) Except as hereinafter provided no obstructions of any type may be planted; cause to be planted; placed or cause to be placed on any streets rights-of-way unless authorized by this chapter.
- (B) It shall be unlawful for any person to place or cause to be placed any obstruction in any drainage ditch so as impede the flow of water; to place or cause to be placed any obstruction across any drainage ditch without prior authorization of the town; or to place or cause to be placed any obstruction upon any drainage ditch right-of-way so as to impede the movement of maintenance equipment.
- (C) Any owner or occupant of property who places or permits to remain any such obstructions on streets, right-of-way; within or across drainage ditches; or upon drainage ditch right-of-way does so at their own risk. Failure on the part of the owner or occupant of a property to remove such obstruction within a reasonable time following notifications by the town will result in such obstruction being removed by the town at the expense of the owner or occupant of the property.
- (D) Penalty, \$100.00. Each day shall count as a separate infraction. See § 10.99
(Ord. 19.81; passed --, Am. Ord. passed 11-23-93)

§54.26 §54.39 Reserved

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TOWN SERVICES

§54.40 Street and Sidewalk Improvements

- (A) Town initiated street and sidewalk improvements are done at Town expense.
- (B) Initiated by petition: The Town shall not undertake to assess for such improvements without first having received a petition for the improvements signed by at least the majority of owners to be assessed. The majority, for this purpose, is to be based upon the lineal frontage feet of land abutting on the street or portion thereof to be improved. Unless the petition requesting that improvements be made specifies a higher percentage, the Town shall assess 50 per cent of the cost of the improvement (excluding the cost of improvements made at street intersections). [Ord. Pass 24 September 1991]

§54.41 Maintenance Road/Sidewalk

- (A) Town roadways and sidewalks will be maintained by the Town of Calabash to assure that NCGS §160A-296 is followed in the routine maintenance of streets and sidewalks in the Town of Calabash.
 - (1) The Town Administrator or designee will determine repair and maintenance work that should be done in all sidewalk areas. That work may include, but not be limited to, resurfacing of the concrete surface, removal of vegetation and keeping the surface clean of obstructions in a competent manner.
 - (2) The Town Administrator or designee will determine the town roads that require maintenance. The use of consultants in this matter is encouraged. Major projects in excess of \$500.00 will need the approval of the Board of Commissioners.
[Ord. effective 09 Sept 1997]

§54.42 Mowing of roadside easements

- (A) The Town Administrator or designee will determine the Town roadside areas that will require mowing and the frequency of same. It is recognized that different roadside areas will have different needs.
- (B) Mowing will be done on a routine basis from the edge of the roadway pavement to the center of the shoulder ditch at the discretion of the Town Administrator or designee. Mowing of the area from the center of the shoulder ditch to the property line of the landowner will be done no more than two times per year at the discretion of the Town Administrator or designee.
- (C) Routine is described as four to six times per year.
- (D) Town roads and or roadside easements are described as those areas that are the property of the Town. No mowing of private property is a part of this policy.
- (E) Adequate funding will be provided by the Board of Commissioners to assure that this policy will be followed. Mowing may be done by contract or Town staff. [Ord. effective 09 Sept 1997]

§54.43 Street Lights

- (A) Densely populated residential areas: A minimum distance of 200 feet and a maximum distance of 4700 feet between lights.
- (B) Intersections: All intersections with high traffic areas.
- (C) Curves: Based on safety issues and considered on an individual basis.
- (D) Sparsely developed areas: Considered on an individual basis.
- (E) Public facilities: All.
- (F) [Ord effective 13 Feb. 1996, Am. Ord. effective 14 Aug. 2007]