

## CHAPTER 7 - STREETS AND SIDEWALKS

### 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) Subsection (A) applies (but is not limited to) goods, wares, or merchandise displayed for sale within the right-of-way for public sidewalks within the town. The purpose of this provision is to prohibit the display of goods, wares, or merchandise within the traveled portion of a public sidewalk in order to insure the safety of the general public. *[Amended May 11, 1993]*

#### ***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, awning or other obstruction to overhang a public street at a distance of less than twelve feet above the traveled portion of such street or a public sidewalk at a distance of less than seven 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.

#### ***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 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.

#### ***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 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.

### ***Section 7-7 Display of Newsracks and Publications on Public Sidewalks***

The purpose of this Section is to allow newspaper and related printed informational products to be distributed on public or private property in the downtown area, without their respective cabinets becoming visually obtrusive, a safety hazard, or a physical impediment. This Section applies to public and private property within the downtown as defined by the boundaries of Central Business (CB) and Office-Institutional (O-I) zoning districts indicated on the Town of Blowing Rock Official Zoning Map. Other areas of Town may be added from time to time.

All news publications and print material must be located in a modular newsrack provided by the Town in locations determined by the Town Council. No other newsracks, magazine display containers, or publication dispenser may be located on public sidewalks, public property, or private property within the CB and O-I zoning districts unless located inside a building.

#### ***(A) Placement***

(1) Modular newsrack placement is limited to the locations indicated on the map entitled “News Rack Locations”. Other locations may be approved by the Town Council from time to time based on meeting the criteria listed below and acceptance by the property owner.

(2) Modular newsrack units must be placed at least 5 feet from any fire hydrant, edge of driveway cut, edge of handicap ramp, edge of crosswalk, edge of building ingress and egress access points, utility boxes, and power poles.

(3) Modular newsrack units must not be placed within a 5-foot radius of any building corner at a street intersection.

(4) Modular newsrack units must not block building display windows without the written consent of the adjoining business/property owner.

(5) Initial Space Allocation (for currently operating vendors) and Priority:

- a. Top priority will be given to *The Blowing Rocket* at all modular newsrack locations.
- b. Second tier priority will be given to *The Watauga Democrat* and to those news publications continuously distributed in the downtown area for at least the previous 12 months.
- c. Third tier priority will be given to other publications.
- d. Publication owners and/or representatives shall reach a mutual agreement and provide to the Town their preference for each modular newsrack location.
- e. Publication vendors shall obtain a permit from the Town to utilize modular newsrack cabinet spaces. The permit fee shall be \$100.00 per calendar year, per cabinet space, renewable on January 1<sup>st</sup> of each year. Half-cabinet space fees are \$50.00 per year. The permit fee may be adjusted from time to time in the Schedule of Fees.

**(B) Design**

- (1) Modular newsracks will be uniform in color, design, and function. Only one (1) logo/trade name of the publication is permitted for each publication cabinet. The logo/trade name shall not exceed an area greater than 1.5 square feet. Second-party advertising is not allowed on the units.
- (2) Nonconforming newsrack units must be removed from Town sidewalks, public property, and private property in the Central Business and Office-Institutional zoning districts by January 1, 2008. Failure to remove nonconforming newsrack units will subject the newsrack publication owners to civil penalties found in this chapter under Section 7-19.

**(C) Maintenance**

The Town will be responsible for the maintenance, repair, and upkeep of the modular newsrack structure. Publication vendors are responsible for the general appearance and maintenance of individual display cabinets. The modular newsracks shall be:

- (1) Reasonably free of dirt and grease,
- (2) Reasonably free of chipped, faded, peeling, or cracked paint,
- (3) Reasonably free of dents, scratches, cracks, abrasions, and discoloration,
- (4) Reasonably free of rust,
- (5) Structural parts in good working order,
- (6) Free of graffiti,
- (7) Free of second party advertising stickers or fliers.

*Sections 7-8 through 7-10 Reserved.*

## CHAPTER 7 - STREETS AND SIDEWALKS

### 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 provided by the administrator) shall be installed beneath the driveway surface so that the drainage capability of the drainage ditch is not materially impaired.

(F) No person shall 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 a zoning or subdivision ordinance.

(G) With respect to driveways that open onto state-maintained streets, approval from the State Department of Transportation is required in addition to the town's approval.

#### *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 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) This section shall not apply to any utility to the extent that the same subject matter is covered in a franchise ordinance applicable to that utility. Nor shall this section 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

***Section 7-13 Town Indemnified.***

Any person obtaining a permit authorized by Sections 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 operations conducted by the permit recipient pursuant to the permit.

*Sections 7-14 and 7-15 Reserved.*

## CHAPTER 7 - STREETS AND SIDEWALKS

### Article III - Miscellaneous

#### ***Section 7-16 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 7-17 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.

(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).

#### ***Section 7-18 Administrator.***

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

#### ***Section 7-19 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 and Sections 7-16 and 7-17 of Article III.

(B) A violation of any of the sections listed in subsection (A) shall also subject the offender to a civil penalty of one hundred dollars (\$100.00). 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 a debt. *[Amended July 13, 1993]*

(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 separate offense.

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