

CHAPTER 96: STREETS AND SIDEWALKS

Section

General Provisions

- 96.01 Naming, changing name of streets
- 96.02 Use of sidewalks to display wares
- 96.03 Throwing or burning trash on sidewalk prohibited
- 96.04 Overhead, covered passageway required at building site
- 96.05 Structures and appurtenances over sidewalks
- 96.06 Utility equipment on street right-of-way
- 96.07 Damage to lights, signs
- 96.08 Damaging shrubbery

Obstructions

- 96.20 Trains not to block streets
- 96.21 Removal of snow and ice
- 96.22 Property owner to keep sidewalks clear
- 96.23 Placing objects on streets and sidewalks

Damage, Repair, Excavation and Construction

- 96.30 Streets not to be damaged
- 96.31 Vehicles on sidewalks
- 96.32 Damage to bridges, culverts
- 96.33 Damaging sidewalks
- 96.34 Permit required for construction, repair, destruction
- 96.35 Application for permit
- 96.36 Bond required before work started
- 96.37 General authority of Town Manager
- 96.38 Town Manager to issue permit; collect fee
- 96.39 Enforcement of provisions by Town Manager
- 96.40 Work specifications; compliance
- 96.41 Permit to cut streets or sidewalks
- 96.42 Excavations to be covered, lighted
- 96.43 Liability of town denied

House Numbers

- 96.50 House numbers to be displayed
- 96.51 Falsifying, obliterating house numbers
- 96.52 House and building numbering regulations

Parades and Pickets

- 96.60 Definitions
- 96.61 Notice of Intent to Picket
- 96.62 Picketing Regulations
- 96.63 Public Assembly and Parade Permits
- 96.64 Public Assembly, Parade and Picketing Regulations

GENERAL PROVISIONS

§ 96.01 NAMING, CHANGING NAME OF STREETS.

It shall be unlawful for any person to change the name of any street in the town without the permission of the Board of Commissioners. It also shall be unlawful for any person to give any name to any new street that already has been given to any other street in the town and the naming of all streets in the town hereinafter laid out or established by any firm or corporation must first be approved by the Board before the names of said streets are placed thereon.

('81 Code, § 14-1) (Ord. passed 9-12-60) Penalty, see § 10.99

§ 96.02 USE OF SIDEWALKS TO DISPLAY WARES.

No person shall place for display or sale any goods, wares or merchandise of any kind upon any of the sidewalks of the town.

('81 Code, § 10-10) Penalty, see § 10.99

§ 96.03 THROWING OR BURNING TRASH ON SIDEWALK PROHIBITED.

No paper, straw, lemon peel, banana peel, watermelon rind or any trash of any kind shall be thrown or swept upon any sidewalk or street of the town, nor shall any trash, refuse or rubbish be burned thereon.

('81 Code, § 14-5) Penalty, see § 10.99

§ 96.04 OVERHEAD, COVERED PASSAGEWAY REQUIRED AT BUILDING SITE.

Before building or remodeling at any place where the same is in close proximity to the sidewalk, an overhead covered passageway shall be constructed so as to leave the sidewalk unobstructed and provide safe and easy passage.

('81 Code, § 14-9) Penalty, see § 10.99

§ 96.05 STRUCTURES AND APPURTENANCES OVER SIDEWALKS.

No person shall erect over any sidewalk or street any part of a building except marquees and signs which are approved by the Town Manager. Awnings may be attached to buildings, provided they are supported upon metallic frames and are at least seven feet above the level of the sidewalk. All signs and other advertising matter shall be properly supported and the bottom of such signs shall be not less than ten feet above the street, sidewalk or other public way. Any drainage from a marquee, awning or any other superstructure shall be carried off under the sidewalk to the storm gutter in a manner approved by the Town Manager.

(‘81 Code, § 14-10) Penalty, see § 10.99

§ 96.08 UTILITY EQUIPMENT ON STREET RIGHT-OF-WAY.

(A) Any public utility company or corporation having poles or any other permanent equipment located on or to be located on any street or alley right-of-way shall not install, change or remove said equipment until they have secured a permit from the Town Manager. However, nothing herein shall be construed to prevent said corporations from making emergency or temporary repairs. Provided further that such emergency or temporary repairs shall be reported to the Town Manager during the next business day after the work has been done.

(B) The safety and welfare of the town and its residents shall be protected. The Town Manager shall withhold the permit required by this section if, in his judgment, he shall deem the installation or location of such poles or equipment to be contrary to the best interest of the town or its residents. In the event a permit is withheld, the matter shall be brought before the Board of Commissioners at its next regular or called meeting, at which time the Board shall direct the permit be issued or denied in accordance with their findings.

(C) When a permit under this section shall be issued, it shall be issued without charge or fee.

(‘81 Code, § 14-11) Penalty, see § 10.99

§ 96.07 DAMAGE TO LIGHTS, SIGNS.

No person shall injure, tamper with, remove or paint upon or deface any sign, signpost, street light, traffic signal or bulletin board or other municipal property upon the streets and sidewalks except employees of the town in performance of their duties.

(‘81 Code, §14-17) Penalty, see § 10.99

§ 96.08 DAMAGING SHRUBBERY.

It shall be unlawful for any person to cut, dig up, disfigure or mar any tree or shrubbery upon the streets, parks and parkways of the town without first obtaining from the Town Manager a permit to do so. Upon the issuance of a permit, any cutting shall be

under the direction of the Town Manager or such town employee as he may designate.
(‘81 Code, § 14-18) Penalty, see § 10.99

OBSTRUCTIONS

§ 96.20 TRAINS NOT TO BLOCK STREETS.

It shall be unlawful for any person to stop, or cause to be stopped, any railroad train within the corporate limits of the town in such a position as to simultaneously close any two adjacent street crossings for a period of more than five minutes.

(‘81 Code, § 9-2) Penalty, see § 10.99

§ 96.21 REMOVAL OF SNOW AND ICE.

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 obstructions from the sidewalk at the earliest possible time and as soon as the weather permits.

(‘81 Code, § 14-6) Penalty, see § 10.99

§ 96.22 PROPERTY OWNER TO KEEP SIDEWALKS CLEAR.

Every person having a graded driveway or lot in the town which drains upon the sidewalk or street of the town and from which gravel, dirt, trash or rubbish washes upon the street or sidewalk shall clean the adjoining sidewalk and remove the gravel, dirt, trash or rubbish therefrom as often as may be necessary to keep the sidewalk or street clean and free thereof.

(‘81 Code, § 14-7) Penalty, see § 10.99

§ 96.23 PLACING OBJECTS ON STREETS AND SIDEWALKS.

No brick, stone or wood or other substance obstructing the free passage of persons and vehicles shall be placed or suffered to lie in any of the alleyways, streets or other routes of the town, nor shall any person place on or in any of the streets, sidewalks or alleyways of the town any boxes, crates, casks, barrels of any description or any other obstruction of any kind. Provided that any person erecting a building may, with permission, place building material for immediate use on the streets in such a way as to not interfere with the usual traffic. Provided further that garbage and other trash which the town's Sanitary Department normally collects may be put in suitable containers and placed on the sidewalk a reasonable time prior to the normal scheduled garbage collection.

(‘81 Code, § 14-8) Penalty, see § 10.99

DAMAGE, REPAIR, EXCAVATION AND CONSTRUCTION

§ 96.30 STREETS NOT TO BE DAMAGED.

It shall be unlawful for any person to drag or run or cause to be dragged or run any harrow, tractor with cleats or lugs, or other implement, engine, machine or tool upon any asphalt, bithulithic, warrenite or other permanently paved street of the town which shall be liable, in any way, to injure or cut the surface thereof. It also shall be unlawful to injure any unpaved street in the same manner.

('81 Code, § 14-14) Penalty, see § 10.99

§ 96.31 VEHICLES ON SIDEWALKS.

It shall be unlawful to drive or park any motor vehicle, wagon, trailer or other wheeled equipment that shall weigh more than 1,000 pounds per axle on or over any sidewalk or curb in the town except over or on driveways provided across said sidewalks and curbs.

('81 Code, § 14-15) Penalty, see § 10.99

§ 96.32 DAMAGE TO BRIDGES, CULVERTS.

No person shall injure or misplace any part of any bridge, culvert, ditch and drain, or other property belonging to or used by the town, nor place any obstruction on any culvert, ditch or drain.

('81 Code, § 14-16) Penalty, see § 10.99

§ 96.33 DAMAGING SIDEWALKS.

(A) It shall be unlawful for any person to break up, destroy or otherwise damage any sidewalk within the corporate limits of the town without first obtaining from the Town Manager a permit to do so.

(B) Any person who violates the terms of division (A) shall be liable for the repair of the sidewalk and upon notice from an officer of the town shall forthwith repair the same at his own expense, and upon failure to so repair the sidewalk, after notice, each day the same is permitted to remain unrepaired shall constitute a separate offense or violation of this section.

(C) If the owner of the property adjoining any sidewalk shall permit the sidewalk to be broken or destroyed and shall fail to repair the same after five days' notice by the Town Manager, the same may be repaired by the town and shall be a charge against the property of the adjoining landowner and shall become a lien against said property from the date of the repair and such amount as is paid out by the town for the repair of the same shall be chargeable from the date of repair at the rate of 6% per annum.

('81 Code, § 14-19) Penalty, see § 10.99

§ 96.34 PERMIT REQUIRED FOR CONSTRUCTION, REPAIR, DESTRUCTION.

It shall be unlawful for any person to make any excavation for, or to lay or construct any paving or curbing on any street, sidewalk, alley or driveway laid out and established for the use of the public generally in the corporate limits of the town and under control of the town, or to tear up, change, repair, reconstruct or to interfere in any way therewith, or to cut or change any curbing thereon, where the same has heretofore been constructed, without first having made application, paid the fee and obtained a permit therefor, and executed the bonds required by this chapter.

('81 Code, § 14-20) Penalty, see § 10.99

§ 96.35 APPLICATION FOR PERMIT.

The owner of any lot adjoining or abutting upon any street, sidewalk, alley or driveway proposing to, in any way, excavate, lay, make, construct, alter, change, tear up, cut, reconstruct or in any manner interfere with any curbing, paving or hard surface treatment thereon, and any contractor, person, firm or corporation proposing or intending to do so for such lot owner, or for any other person, shall first make to the Town Manager a written application therefor, stating the nature, extent and location of the same and shall not begin, do or perform said acts on any of them until the fees required by this chapter shall have been paid and bonds given and approved and a permit has been issued therefor by the Town Manager. Only one permit is necessary and required for any one project; but any, each and every person, firm or corporation performing or allowing any of the said things without first obtaining or there having been obtained a permit shall be guilty of a violation of this subchapter.

('81 Code, § 14-21) Penalty, see §10.99

§ 96.36 BOND REQUIRED BEFORE WORK STARTED.

Where a bond is required, no work shall be done in or on any established street, sidewalk, alley or driveway, nor shall any permit be issued until a damage indemnity bond in an amount and in a form satisfactory to and approved by the Town Manager and fled with him and with such surety to be approved by him to indemnify and hold the town harmless from any damage to any person or property by reason of or growing out of such work or in connection therewith and also until another separate construction performance bond be so executed and approved to hold the town harmless from any cost or expense incurred in restoring, putting down or completing such work in accordance herewith and the terms thereof.

('81 Code, § 14-22) Penalty, see § 10.99

§ 96.37 GENERAL AUTHORITY OF TOWN MANAGER.

The Town Manager is hereby given authority, and with the written approval of the Board of Commissioners and subject to its control and direction, to make such reasonable

fixed rules and regulations, not inconsistent herewith and applying to each applicant for such permits as are or may be necessary to carry out and perform the purpose of this subchapter, in fixing the forms for said applications and permit, and to fix the time required for inspection of such materials and work and to approve or condemn the same. The Town Manager shall determine the necessity in any given case for an indemnity bond and a construction performance bond, either or both; and if the same is deemed necessary, or any one thereof to fix the penalty and the amount of the indemnity bonds required. But in no case where any indemnity bond shall be deemed to be necessary and required shall it be less than an amount set from time to time by the Board of Commissioners, and in case a construction performance bond is deemed necessary and required it shall be in the penal sum of an amount set from time to time by the Board of Commissioners. In matters of a trifling nature and which shall be begun, performed and completed within the course of one calendar day, the Town Manager is authorized, in his discretion, at the time of issuing the permit herein provided for, to dispense with the giving of a bond with sureties, but the dispensing with the same shall not have the effect of relieving such licensee under said permit from liability to hold the town harmless in respect thereto.

('81 Code, §14-23)

§ 96.38 TOWN MANAGER TO ISSUE PERMIT; COLLECT FEE.

The permit required for construction, alteration or destruction shall be issued by the Town Manager and he shall, when the application is filed, collect such sum as shall be established from time to time by the Board of Commissioners. A copy of the schedule of fees adopted shall remain on file and open to public inspection in the office of the Town Manager.

('81 Code, §14-24)

§ 96.39 ENFORCEMENT OF PROVISIONS BY TOWN MANAGER.

The duty of enforcing and carrying out the provisions of this chapter is placed upon the Town Manager, who shall have the power to inspect and pass such work and projects and to cause to be issued permits for the same, when conforming to and complying with this subchapter, and to reject and condemn such work or projects, to cause to be refused or to be revoked permits for the same, when not conforming to and complying with this subchapter, or any of the provisions hereof and to cause said project or work or any part thereof begun under a permit issued hereunder to be completed in accordance with this subchapter and the specifications herein contained at the cost and expense of said lot owner and contractor, either or both, and to be charged to said lot owner or contractor, either or both, and the surety upon any construction performance bond and said bond shall be liable therefor and all costs, expenses and attorney's fees of every kind incurred by the town by reason thereof any provision in said bond to the contrary notwithstanding. Neither the insolvency of any surety on such bond, nor the failure of the town to require of said lot owner or contractor to execute such bond, nor the execution of said bond shall have the effect of relieving said lot owner or contractor of any personal, civil or criminal liability hereunder, or to relieve the agents, servants or employees of such lot owner or

contractor of any civil or criminal liability.
(‘81 Code, § 14-26)

§ 96.40 WORK SPECIFICATIONS; COMPLIANCE.

Specifications shall be drawn by the Town Manager or a competent engineer approved by him and all work and material shall be inspected and approved by him or his designated inspector. No material or work shall be allowed to remain in place when the same shall have been condemned or rejected. Opportunities to make an inspection of materials to be used and manner of doing work shall be granted the inspector whenever requested. It shall be the duty of the Town Manager to cause any work done in violation hereof and contrary to the specifications to be removed and the same done in accordance herewith or the original condition restored by the property owner or the contractor, either or both to be collected out of the construction performance bond as an additional remedy if such bond was given.

(‘81 Code, § 14-25)

§ 96.41 PERMIT TO CUT STREETS OR SIDEWALKS.

It shall be unlawful for any person to make any cut or excavation through the paved portion of any street or sidewalk in the town without first obtaining permission to do so on forms to be provided by the town. Provided that before any such permit is issued there shall be executed to the town, on a form approved by the town, a bond in a sum sufficient to insure that said streets or sidewalks will be replaced in a good and workmanlike manner. Said bond shall run for a period of not less than 12 months, so that if the place where said excavation or cut is made shall give trouble within said period of 12 months, then and in such event, the town will be protected against loss or damage by reason of repair to such cut or excavation.

(‘81 Code, § 14-12) Penalty, see §10.99

§ 96.42 EXCAVATIONS TO BE COVERED, LIGHTED.

It shall be unlawful for any person making any excavations for any purpose whatsoever in any of the streets or sidewalks to fail to securely cover such excavations with planks or place ropes around the same three feet from the ground, or to fail to place a sufficient number of lights around such excavation before dark and to keep such lights burning all night every night such excavation shall be open.

(‘81 Code, § 14-13) Penalty, see § 10.99

§ 96.43 LIABILITY OF TOWN DENIED.

The forms for an application for a permit required by this subchapter shall be signed by the lot owner and also by the contractor or other person, firm or corporation actually doing said work. In making said application for the same, each shall be required to agree for himself, his agents, servants and employees to indemnify and hold the town harmless from any cost, damage or expense arising out of or connected with said work or anything

connected therewith and to reimburse the same. The failure to execute such solvent bonds as might be within the power of the town to require shall not in any way release the liability of any lot owner, contractor or their agents, servants or employees or any of them.

('81 Code, § 14-27)

HOUSE NUMBERS

§ 96.50 HOUSE NUMBERS TO BE DISPLAYED.

(A) It shall be the duty of the owner of each house or building in the town to display properly on the front thereof in a position easily observed, the proper number of his house or building, for the ascertainment of which he shall apply to the Town Manager.

(B) Upon notice by the Town Manager to any owner or occupant of any house or building, it shall be the duty of such owner or occupant, within ten days after such notice shall have been given assigning to such house or building a number or numbers, to cause said house or building to be numbered as required at the expense of such owner or occupant.

('81 Code, § 14-2) (Ord. passed 9-12-60) Penalty, see § 10.99

§ 96.51 FALSIFYING, OBLITERATING HOUSE NUMBERS.

(A) It shall be unlawful for the owner or occupant of any house or building in the town to which a street number has been assigned and affixed to attach or paint on such house or building any figure tending or purporting to indicate a street number other than the number so indicated to be the number assigned to such house or building as herein provided.

(B) It shall be unlawful for any person to remove, obliterate or destroy any such house or building number attached to or painted on such house or building, as required to be displayed by the provisions hereof.

('81 Code, § 14-3) (Ord. passed 9-12-60) Penalty, see § 10.99

§ 96.52 HOUSE AND BUILDING NUMBERING REGULATIONS.

The following rules shall prevail in the numbering of houses or buildings:

(A) The reference streets for house numbering are as follows:

(1) (a) The east-west reference street through the town beginning at the intersections of Trade Street and Oak Street; thence in a northerly direction along Trade Street (also known as U.S. Highway Route 176), to the town limits. This shall be known as North Trade Street.

(b) Again starting at the point of beginning, the intersections of Trade Street and Oak Street; thence in a southerly direction along Trade Street (also known as U.S. Highway Route 176) (and the Landrum Road) to the town limits. This shall be known as South Trade Street.

(c) Those parts of streets or alleys crossing such east-west reference street and lying to the east of it shall have their names prefixed with the word "East"; and those parts of such streets or alleys lying to the west of said east-west reference street shall have their street names prefixed with the word "West."

(2) (a) The north-south reference streets and lines are as follows: Beginning at the intersections of Trade Street and Oak Street; thence in an easterly direction along Oak Street to the intersection of the center lines of Oak Street and Palmer Street; thence in an easterly direction in a straight line to the intersection of the center lines of Woodland Road and Tryon Place; thence in a southeasterly direction along Tryon Place to Old Ridge Road; thence in an easterly and southeasterly direction along Old Ridge Road to Trash Dump Road, sometimes called Vaughn Street; thence along Trash Dump Road, sometimes called Vaughn Street, to Howard Street, also known as Howard Gap Road; thence along Howard Street, also known as Howard Gap Road, in an easterly direction to the town limits.

(b) Again starting at the point of beginning, the intersections of Trade Street and Oak Street. Thence in a southwesterly direction, in a straight line, to the intersection of Pacolet Street and McCown Street; thence in a westerly direction along Pacolet Street to its intersection with Walnut Street; thence in a westerly direction, in a straight line, to the intersection of Laurel Avenue and Lanier Street; thence along Laurel Avenue in a northwesterly direction to its intersection with Doubleday Road; thence along Doubleday Road (part of which is sometimes called Overlook Road) in a westerly direction to the town limits.

(c) Those parts of streets or alleys crossing such north-south reference streets and lines and lying north of it shall have their street names prefixed with the word "North"; and those parts of such streets or alleys lying to the south of said north-south reference streets and lines shall have their names prefixed with the word "South."

(B) Streets intersecting the reference streets shall begin a number 100, the second block at the number 200, and the third block at the number 300, and so on.

(C) Going away normally from the reference streets, the even numbers shall be on the right-hand side and the odd numbers on the left-hand side.

(D) A separate number shall be assigned for each 50-foot frontage, or fraction thereof of a street, regardless of whether the lots front on the street being numbered or not.

(E) Other streets not intersecting reference streets and streets which are not extensions which intersect these reference streets shall begin at number 100 on the end of the street which is nearest and perpendicular to one of these reference streets and the same system of numbering the blocks is to be followed out as noted in division (B), assigning a new 100 (or block number) to each block or if a block is 800 feet or more, with no intersecting street in between, then a new block number shall begin at the most logical place for a street to be cut through it, or halfway between the long block corners; or, if the street is long enough, without intersecting streets, then a new block number shall begin at intervals of 500 feet.

(F) A new block number is to be assigned to each block that enters the street being numbered, regardless of whether the street continues across it, and the block number shall change directly opposite the point where this dead-end street enters the street being numbered. In a case of a slight offset in intersecting streets, the block number will change at the street intersections instead of directly opposite the entering street.

(G) Reassignment of numbers may be required when a lot is resubdivided or additional buildings are placed on said lot.
(‘81 Code, § 14-4) (Ord. passed 9-12-60)

PARADES AND PICKETS

§ 96.60 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Demonstration means a public display of sentiment for or against a person or cause, including protesting.

Festival means an outdoor concert, fair, community event, or similar event that is primarily commercial and/or recreational in nature.

Parade means an athletic event, march, procession or other similar activity consisting of persons, animals, vehicles or things, or any combination thereof, that disrupts the normal flow of traffic upon any public street. A funeral procession is not a parade.

Picket or Picketing means to make a public display or demonstration of sentiment for or against a person or cause, including protesting which may include the distribution of leaflets or handbills, the display of signs and any oral communication or speech, which may involve an effort to persuade or influence, including all expressive and symbolic conduct, whether active or passive.

Public assembly means a festival or demonstration which is reasonably anticipated to obstruct the normal flow of traffic upon any public street or Town-controlled park and that is collected together in one place.

Sidewalk means that portion of the street right-of-way which is designated for the use of pedestrians and may be paved or unpaved and shall include easements and rights of ways.

Street means the entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter or right, for the purposes of vehicular traffic, including that portion that is known as the shoulder of the roadway and the curb.

§ 96.61 NOTICE OF INTENT TO PICKET.

(A) Notification Required. The organizer of a picket that the organizer knows, or should reasonably know will be by one (1) or more individuals shall give notice of intent to picket to the Chief of Police or his designee at least 48 hours before the beginning of the picket. The notice of intent to picket shall include the following information:

- (1) The name, address and contact telephone number for the organizer of the picket;
- (2) The name, address and contact telephone number of the person giving notice of intent to picket if different from the organizer;
- (3) The name of the organization or group sponsoring the picket;
- (4) The location where the picket is to take place;
- (5) The date and time the picket will begin and end; and
- (6) The anticipated number of participants, and the basis on which this estimate is made.

(B) Receipt of Notification. Upon notice of intent to picket given in accordance with subsection (A), the Chief of Police or designee shall immediately issue a receipt of notice. The receipt shall contain all information stated in the notice. The organizer of a picket shall be responsible for maintaining the receipt, and shall present it when so requested by a law enforcement officer or other Town official.

§ 96.62 PICKETING REGULATIONS.

(A) Picketing may be conducted on public sidewalks, Town-controlled parks, or other Town-owned areas normally used or reserved for pedestrian movement, including easements and rights-of-way, and shall not be conducted on the portion of the public roadway used primarily for vehicular traffic. Picketing may not be conducted at a location directed, focused, or targeted at a particular private residence.

(B) Picketing shall not disrupt, block, obstruct or interfere with pedestrian or vehicular traffic or the free passage of pedestrian or vehicular traffic into any driveway, pedestrian entrance, or other access to buildings, which abut the public sidewalks. In order to allow businesses in the town to continue to operate when picketing is occurring,

picketers shall not station themselves within a ten foot (10') radius of entrances to any business which is then open for business.

(C) Written or printed placards or signs, flags, or banners carried by individuals engaged in picketing shall be of such a size and/or carried on the sidewalks or other Town-owned areas, as to allow safe and unobstructed passage of pedestrian or vehicular traffic. The staff or pole on which a sign, flag, or banner may be carried shall be made of corrugated material, plastic, or wood, and shall not exceed 40 inches in length and shall not be made of metal or metal alloy. If made of wood, the staff or pole shall be no greater than three-fourths inch in diameter at any point. A staff or pole must be blunt at both ends.

(D) If more than one group of picketers desire to picket at the same time at or near the same location, law enforcement officers may, without regard to the purpose or content of the message, assign each group a place to picket in order to preserve the public peace. Members of a group shall not enter an area assigned to another group. Priority of location shall be based upon which group of picketers arrived first.

§ 96.63 PUBLIC ASSEMBLY AND PARADE PERMITS.

(A) Permit Required. No public assembly or parade is permitted unless a permit allowing such activity has been obtained, and remains unrevoked, pursuant to this section.

(B) Permit Application. An application for a public assembly or parade permit shall be made to the Chief of Police in writing on a form prescribed by the Town Manager at least 30 days before the commencement of the event. Notwithstanding the preceding sentence, the Chief of Police shall consider an application that is filed less than 30 days before the commencement of the proposed event where the purpose of such event is a spontaneous response to a current event, or where other good and compelling causes are shown. The application must contain the following:

- (1) The name, address, and telephone number for the person in charge of the proposed event and the name of the organization with which that person is affiliated or on whose behalf the person is applying (collectively "applicant");
- (2) The name, address, and telephone number for an individual who shall be designated as the responsible planner and on-site manager for the event;
- (3) The date, time, place, and route of the proposed event, including the location and time that the event will begin to assemble and disband, and any requested street closings;
- (4) The anticipated number of persons and vehicles, and the basis on which this estimate is made;
- (5) A list of the number and type of animals that will be at the event and all necessary health certificates for such animals;
- (6) Such other information, attachments, and submissions that are requested on the application form; and

(C) Permitting criteria. An application may be denied or revoked for any of the following reasons:

- (1) The application is not fully completed and executed;
- (2) The applicant has not tendered any required user fees, indemnification agreements, insurance certificates, or security deposits within times prescribed;
- (3) The application contains a material falsehood or misrepresentation;
- (4) The applicant is legally incompetent to contract or to sue and be sued;
- (5) The applicant has on prior occasions made material misrepresentations regarding the nature or scope of an event;
- (6) The applicant has previously permitted a violation or has violated the terms of a public assembly or parade permit issued to or on behalf of the applicant;
- (7) The applicant has on prior occasions damaged Town property and has not paid in full for such damage;
- (8) A fully executed prior application for the same time and place has been received, and a permit has been or will be granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple simultaneous events;
- (9) The proposed event would conflict with previously planned programs organized, conducted, or sponsored by the Town and previously scheduled at or near the same time and place;
- (10) The proposed event would present an unreasonable danger to the public health or safety;
- (11) The proposed event would substantially or unnecessarily interfere with traffic;
- (12) The event would likely interfere with the movement of emergency equipment and police protection in areas contiguous or in the vicinity of the event.
- (13) There would not, at the time of the event, be sufficient law enforcement and traffic control officers to adequately protect participants and non-participants from traffic related hazards in light of the other demands for police protection at the time of the proposed event;
- (14) The applicant has not complied or cannot comply with applicable licensure requirements, ordinances or regulations concerning the sale or offering for sale of any goods or services;
- (15) The use or activity intended by the applicant is prohibited by law;
- (16) For non-First Amendment protected public assemblies or parades, the following criteria shall also apply:
 - (a) The cultural and/or educational significance of the event;
 - (b) The extent to which the event contributes to the economic revitalization and business development of the Town;
 - (c) The impact and/or cost of the event to Town support services;
 - (d) The impact of the event to the public health, safety and welfare;

- (e) The impact of the event on business and resident populations within or adjacent to the proposed event site;
- (f) The evaluation of any previous event produced by the event organizer with regard to planning, quality, public safety, and payment of invoices; and
- (g) The frequency and timing of the event or similar events.

Unless subject to (C)(16), noting in this section shall authorize the Chief of Police to deny or revoke a permit based upon political, social, or religious grounds or reasons, or based upon the content of the views expressed.

The Chief of Police may attach reasonable conditions to any permit approval.

(D) Costs and Fees. The applicant shall be responsible for hiring and paying off-duty law enforcement officers, or reimbursing the Town for the costs of providing on-duty law enforcement officers, to appropriately police street closures. For festivals, the applicant shall be additionally responsible for hiring and paying off-duty law enforcement officers and fire/EMS personnel, or reimbursing the Town for the costs of providing on-duty law enforcement officers and fire/EMS personnel, to provide internal festival safety and security.

The Chief of Police, in consultation with the Town police and fire departments, shall determine the number of officers and fire/EMS personnel needed to appropriately police street closures and for internal safety and security, and the time when such services shall commence and end, taking into consideration the following:

- (1) The proposed location of the special event or route of the parade;
- (2) The time of day that the public assembly or parade is to take place;
- (3) The date and day of the week proposed;
- (4) The estimated number of participants;
- (5) The estimated number of viewers;
- (6) The nature, composition, format and configuration of the special event or parade;
- (7) The anticipated weather conditions;
- (8) The estimated time for the special event or parade;
- (9) For festivals, whether alcohol will be served, live music offered, or retail sales stations provided, and the number and location of alcohol service stands, music stages, and retail stands.

In addition, the applicant shall reimburse the Town for the costs of providing street and sidewalk cleaning, trash receptacle placement, trash removal, and trash disposal.

Notwithstanding the foregoing, the Town may provide the services required by this subsection at no cost, or at a reduced cost, to the applicant should the Town desire to provide such support to the public assembly or parade. Such action is not a waiver of a

regulatory requirement based upon political, social, or religious grounds or reasons, or based upon the content of the views expressed, but instead is an affirmative act of Town association or speech.

(E) Time and Notice of Decision. The Chief of Police shall approve or deny an application within 20 days of receipt. A notice of denial or revocation shall clearly set forth the grounds upon which the permit was denied or revoked and, where feasible, shall contain a proposal for measures by which the applicant may cure any defects in the application or otherwise procure a permit. Where an application is denied because the proposed event would conflict with another event that has or will be approved, the Chief of Police shall propose an alternative place, if available for the same time, or an alternative time, if available for the same place.

(F) Appeals.

(1) An applicant may appeal the denial or revocation of an application in writing within ten days after notice of the denial has been received. Within five business days, or such longer period of time agreed to by the applicant, the Town Manager shall hold a quasi-judicial hearing on whether to issue the permit or uphold the denial or revocation. The applicant shall have the right to present evidence at said hearing. The decision to issue or uphold the denial or revocation shall be based solely on the approval criteria set forth in this section. The Town Manager shall render a decision on the appeal within five business days after the date of the hearing. In the event that the purpose of the proposed event is a spontaneous response to a current event, or where other good and compelling causes are shown, the Town Manager shall reasonably attempt to conduct the hearing and render a decision on the appeal as expeditiously as is practicable.

(2) The decision of the Town Manager is subject to review in the Superior Court of Polk County by proceedings in the nature of certiorari. Any petition for writ of certiorari for review 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 a 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 period shall control. The North Carolina Rules of Appellate Procedure shall govern an appeal by an applicant from the Superior Court of Polk County.

§ 96.64 PUBLIC ASSEMBLY, PARADE AND PICKETING REGULATIONS.

(A) It shall be unlawful to unreasonably hamper, obstruct, impede, or interfere with a public assembly, parade, or picketing or with any person, vehicle, or animal participating or used in the public assembly, parade or picketing. Spectators of public assemblies,

parades and picketing shall not physically interfere with individuals engaged in such activities. Spectators and persons attending or participating in a public assembly, parade or picketing shall not speak fighting words or threats that would tend to provoke a reasonable person to a breach of the peace.

(B) It shall be unlawful for the operator of a motor vehicle to drive between vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

(C) Spectators and persons attending or participating in a public assembly, parade or picketing shall be subject to all applicable local, state and federal laws.

(D) Nothing in this chapter prohibits a law enforcement officer from issuing a command to disperse in accordance with North Carolina General Statutes § 14-288.5 in the event of a riot or disorderly conduct by an assemblage of three or more persons.

(E) It shall be unlawful for any person to violate any provision of this chapter or to violate any term or condition of a permit issued pursuant to this chapter.

('81 Code, §§9-163 through 9-169, passed 11-10-69; Am. Ord. 2013-06, passed 05-21-13)

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.