**CHAPTER 32: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES**

**CHAPTER** **32:** **STREETS, SIDEWALKS AND OTHER PUBLIC PLACES**

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*Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening,*

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*saved from repeal, see  1‑9*

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***Statutory reference:***

*Establishment and control of streets, see G.S.  160A‑296 et seq.*

***ARTICLE I. IN GENERAL***

**32‑132‑30 RESERVED.**

***ARTICLE II. CONSTRUCTION AND EXCAVATION***

**32‑31 PERMIT FOR EXCAVATION REQUIRED; PENALTY.**

It shall be unlawful for any person to dig a hole, ditch or excavation of any kind whatsoever on any public right‑of‑way in the town without first securing a permit in writing from the Town Manager. Excavation shall be made in accordance with the permit issued. Any violation of this article subjects the offender to a civil penalty of $500, as provided in  1‑6.

(1970 Code,  7‑1; 2001 Code,  32‑31)

**32‑32 PERMIT FOR SIDEWALK CONSTRUCTION.**

No sidewalk of any description of any brick, cement or other material shall be built by any person without a written permit from the Town Manager. Sidewalks shall be constructed in accordance with specifications or other requirements of the town.

(1970 Code,  7‑2; 2001 Code,  32‑31)

**32‑33 BOND PREREQUISITE TO PERMIT.**

Before a permit, as referred to in  32‑31 and 32‑32, are issued, there shall be executed by the applicant, to the town on a form approved by the Town Manager, a bond, in a sum determined by the Town Manager to be sufficient, to ensure that the streets and sidewalks will be replaced in a good and workmanlike manner. The bond shall run for a period of not less than 12 months, so that if the place where the excavation or construction is made pursuant to the permit shall give trouble within the period of 12 months, the town will be protected against loss or damage by reason of repair to the excavation or construction.

(1970 Code,  7‑3; 2001 Code,  32‑33)

**32‑34 STREET REPAIRS.**

It shall be the duty of every person who shall open or dig a ditch, trench or hole in any street, public alley or sidewalk of the town to put the street, public alley or sidewalk in as good condition in all respects as it was before the excavation.

(1970 Code,  7‑4; 2001 Code,  32‑34)

**32‑35 EXCAVATIONS REQUIRED TO BE PROTECTED.**

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

(1970 Code,  7‑5; 2001 Code,  32‑35)

**32‑36 DAMAGING STREETS PROHIBITED.**

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

(1970 Code,  7‑6; 2001 Code,  32‑36)

**32‑37 RAILROAD CROSSINGS.**

At any point where a railroad crosses a street, the crossing shall be so constructed as to maintain a uniform grade the entire width of the street intersection. The crossing shall be constructed of clay, wood or other material in a way as to prevent a sudden rise or bump in the roadway or sidewalk. When the roadbed of the railroad is lower than the street, the incline shall be uniform and gradual. Where the crossings cannot be so constructed as to meet these requirements, an elevated crossing shall be constructed according to the plans as shall be submitted to and approved by the Board of Commissioners.

(1970 Code,  7‑7; 2001 Code,  32‑37)

***Statutory reference:***

*Railroad crossings, see G.S.  160A‑298*

**32‑38 CONSTRUCTION NEAR SIDEWALK.**

Before building or remodeling any structure where it is in close proximity to the sidewalk, a passageway shall be constructed so as to leave the sidewalk unobstructed and provide safe passage for pedestrians and vehicles. The passageway shall be constructed in accordance with the requirements of the town.

(1970 Code,  7‑23; 2001 Code,  32‑38)

***Cross-reference:***

*Buildings and building regulations, see Ch. 10*

**32‑3932‑70 RESERVED.**

***ARTICLE III. PARADES, PICKETS AND PUBLIC ASSEMBLIES***

***Statutory reference:***

*General ordinance‑making power, see G.S.  160A‑174 et seq.*

*Power of local authorities to assemblages or processions, see G.S.  20‑169*

**32‑71 PARADES, PICKET LINES AND GROUP DEMONSTRATIONS.**

It shall be unlawful for any person to parade, picket or demonstrate in any manner within the town limits without first complying with this article. Any violation of this article subjects the offender to a civil penalty of $100, as provided in  1‑6.

(1970 Code,  3‑12; 2001 Code,  32‑71)

**32‑72 DEFINITIONS.**

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

***BLOCK.*** The portion of any street lying between its intersection with other streets.

***GROUP DEMONSTRATION.*** Any assembly together or concert of action between or among two or more persons for the purpose of protesting any matter or of making known any position or promotion of the persons, or of or on behalf of any organization or class of persons, or for the purpose of attracting attention to the assembly.

***PARADE.*** Any parade, march, ceremony, show, exhibition or procession of any kind in or upon the public streets, sidewalks, alleys, parks or other public grounds or places.

***PICKET LINE.*** Any two or more persons formed together for the purpose of making known any positions or promotion of the persons, or of or on behalf of any organization or class of persons.

(1970 Code,  3‑12.1; 2001 Code,  32‑72)

***Cross-reference:***

*Definitions generally, see  1‑2*

**32‑73 PERMIT REQUIRED.**

It shall be unlawful for any person to organize, conduct or participate in any parade, picket line or group demonstration in or upon any street sidewalk, alley or other public place within the town unless a permit has been issued by the town in accordance with the provisions of this article.

(1970 Code,  3‑12.2; 2001 Code,  32‑73)

**32‑74 REQUIREMENTS AND ISSUANCE OF PERMITS.**

The Chief of Police or his or her designee is authorized to issue permits as required in  32‑73; and in the issuance of the permit, he or she shall:

(A) Require a written application for permit to be filed not less than 24 hours in advance of the parade, picket line or group demonstration. The application shall be on a form prescribed by the Chief; shall require the application to be signed by the applicant; shall require that the applicant show the proposed time, place, purpose and size of the parade, picket line or group demonstration; and shall show whether or not any minors below the age of 18 years shall participate;

(B) Refuse to issue the permit when the activity or purpose stated in the application would violate any ordinance of the town or statute of the state, or when the activity or purpose would constitute a clear and present danger to the public health or safety or would hinder or prevent the orderly movement of pedestrian or vehicular traffic on streets, alleys or sidewalks;

(C) Specify in the permit whether or not minors below the age of 18 years will be permitted to participate; the Chief shall pass upon whether or not the minors may participate and shall base his or her determination upon whether or not the purpose or time or place of the particular activity will be detrimental to or endanger the health, safety or welfare of the minors, or will interfere with their education;

(D) Require that the application for a permit shall specify and the permit shall designate the person or persons in charge of the activity. The person shall be required to accompany the parade, picket line or group demonstration and shall carry the permit with him or her at that time. The permit shall not be valid in the possession of any other person;

(E) Require that the permit set the starting time, duration, speed of travel and space between persons or vehicles in the parade, picket line or group demonstration; may prescribe the portions or areas of streets, alleys, sidewalks or other public places to be used; and impose other reasonable requirements as the Chief may prescribe for the control and free movement of pedestrian or vehicular traffic, or for the health, safety and property rights of the participants and the general public; and

(F) Among other considerations, consider and find as a requisite to issuance the following:

(1) The activity will not require excessive diversion of police from other necessary duties;

(2) The activity will not interfere with the right of property owners in the area to enjoy peaceful and lawful occupancy and use of their property; and/or

(3) The activity can be conducted without unreasonable interference with normal pedestrian or vehicular traffic in the area, and will not prevent normal police and fire protection to the public, and will not be likely to cause injury to persons or property or to provoke disorderly conduct or to create a public disturbance.

(1970 Code,  3‑12.3; 2001 Code,  32‑74)

**32‑75 REVOCATION OF PERMIT.**

The Chief of Police shall revoke any permit granted for a parade, picket line or group demonstration for any of the following causes:

(A) The violation by any participant of  32‑77; and/or

(B) The failure to comply with the terms and conditions of the permit.

(1970 Code,  3‑12.5; 2001 Code,  32‑75)

**32‑76 APPEAL OF REFUSAL OR REVOCATION.**

(A) If a permit under this article is revoked or refused, the permittee has ten days to file a written request with the Board of Commissioners for a hearing.

(B) The Board of Commissioners will hold a timely hearing upon the request.

(2001 Code,  32‑76)

**32‑77 CERTAIN ACTIVITIES PROHIBITED.**

The taking or keeping of any dog or other vicious animal, whether leashed or unleashed, except for legally recognized disability assistance animals, when performed or undertaken in conjunction with or as a part of any parade, picket line or group demonstration is prohibited and declared unlawful.

(1970 Code,  3‑12.4; 2001 Code,  32‑77)

**32‑78 INTERFERENCE PROHIBITED.**

No person shall hamper, obstruct, impede or interfere with any parade, picket line or group demonstration being conducted under authority of a permit duly issued by the Chief of Police.

(1970 Code,  3‑12.6; 2001 Code,  32‑78)

**32‑79 ADDITIONAL REGULATIONS APPLICABLE TO PICKETING.**

Picket lines and picketing shall be subject to the following additional regulations.

(A) Picketing may be conducted only on the sidewalk reserved for pedestrian movement and may not be conducted on the portion of street used primarily for vehicular traffic.

(B) Not more than ten pickets promoting the same objective shall be permitted to use either of the two sidewalks within a single block at any one time.

(C) Pickets may carry written or printed placards or signs not exceeding two feet in width and two feet in length promoting the objective for which the picketing is done provided the words used are not derogatory or defamatory in nature.

(D) Pickets must march in single file and not abreast and not march closer together than 15 feet, except in passing one another. Pickets shall not be allowed to walk more than five feet from the curb line and shall be in continuous motion.

(E) If pickets promoting different objectives desire to use the same sidewalk for picketing and the use would result in the presence of more than ten pickets, the Chief of Police shall allot time to each group of pickets or the use of the sidewalk on an equitable basis.

(1970 Code,  3‑12.7; 2001 Code,  32‑79)

**32‑80 EXCEPTIONS.**

The provisions of this article shall not apply to:

(A) Funeral processions;

(B) Students going to or from school classes or participating in educational or recreational activity where the activity is under the supervision and direction of proper school authorities; or

(C) Any governmental agency acting within the scope of its functions.

(1970 Code,  3‑12.8; 2001 Code,  32‑80)

**32‑81 ASSEMBLY ON SIDEWALK.**

(A) A person commits a violation if he or she loiters or prowls in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon appearance of a police officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object. Unless flight by the person or other circumstances makes it impractical, a police officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting the person to identify himself or herself and to explain his or her presence or conduct. No person shall be convicted of an offense under this section if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if it had been believed by the police officer at the time, would have dispelled the alarm. Any police officer may arrest any person suspected of being a loiterer or prowler without a warrant if it reasonably appears that the delay in arresting the suspect caused by obtaining a warrant would result in the suspects escape.

(B) It shall be unlawful for any person, after first being warned by a police officer, or where a no loitering sign or signs have been posted, to loiter, stand, sit, or lie in or upon any public or quasi-public sidewalk, street, curb, cross-walk, walkway area, mall or that portion of private property utilized for public use, so as to hinder or obstruct unreasonably the free passage of pedestrians or vehicles thereon. It shall be unlawful for any person to block, obstruct, or prevent free access to the entrance to any building open to the public.

(C) For the purpose of this section, ***PUBLIC PLACE*** has the following definition unless the context clearly indicates or requires a different meaning: an area generally visible to public view, including streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public, including those which serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

(1970 Code,  7‑20; 2001 Code,  32‑81)

**32‑8232‑110 RESERVED.**

***ARTICLE IV. ROADS AND BRIDGES***

***Statutory reference:***

*Streets, traffic and parking, see G.S.  160A‑296 et seq.*

**32‑111 PENALTY.**

Any violation of this article subjects the offender to a civil penalty of $100, as provided in  1‑6.

(2001 Code,  32‑111)

**32‑112 DAMAGING BRIDGES AND CULVERTS PROHIBITED.**

No person shall injure or move any part of any bridge, culvert, ditch, drain or other property belonging to or used by the town.

(1970 Code,  7‑9; 2001 Code,  32‑112)

**32‑113 DAMAGING STREETLIGHTS AND SIGNS PROHIBITED.**

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

(1970 Code,  7‑10; 2001 Code,  32‑113)

**32‑114 PLACING OBJECTS ON STREETS AND SIDEWALKS.**

(A) No brick, stone, wood or other substances obstructing the free passage of persons and vehicles shall be placed or permitted to lie in any of the alleyways or streets or sidewalks of the town.

(B) No person shall place on or in any of the streets, sidewalks or alleyways of the town any boxes, crates, casks or other barrels of any description, or any other obstruction of any kind that interfere with the public health, safety or welfare.

(C) Any person erecting a building may, with permission of the Town Manager, place building material for immediate use on the streets in a way as not to interfere with the normal passage of vehicles and pedestrians.

(1970 Code,  7‑22; 2001 Code,  32‑114)

**32‑115 OBSTRUCTING OR DAMAGING STREET DRAINAGE WAYS PROHIBITED.**

(A) It shall be unlawful for any person to obstruct or cause to be obstructed the free flow of water in, over, along, upon or through any drainage ditch, street gutter, culvert or other drainage way in any public street or other public way or other natural drainage course within the corporate limits by depositing any trash, refuse, tree or shrubbery trimmings, building materials scraps or other matter in the place.

(B) It shall be unlawful for any person to dump or deposit or cause any gasoline, fuel oil, naphtha or other flammable liquid, or any liquid wastes containing a toxic or poisonous substance, or any lubricating oil, grease or detergent to drain into any drainage ditch, street gutter, culvert or other drainage way in any public street or other public way or other natural drainage course within the corporate limits.

(1970 Code,  7‑29; 2001 Code,  32‑115)

**32‑11632‑150 RESERVED.**

***ARTICLE V. SIDEWALKS***

***Statutory reference:***

*General ordinance‑making power, see G.S.  160A‑174 et seq.*

**32‑151 PENALTY.**

Any violation of this article subjects the offender to a civil penalty of $100, as provided in  1‑6.

(2001 Code,  32‑151)

**32‑152 GOODS ON SIDEWALKS.**

No person shall place or display or sell any goods, wares or merchandise of any kind upon the streets and sidewalks of the town, or store goods, wares or merchandise for any length of time whatsoever that poses a credible threat of harm to the public health, safety and welfare. This section shall apply to shoeshine stands and any vendor of goods and services which shall use the streets and sidewalks of the town as a place of business.

(1970 Code,  7‑21; 2001 Code,  32‑152)

**32‑153 BICYCLES ON SIDEWALK PROHIBITED.**

It shall be unlawful for any person to ride a bicycle on any sidewalk in the town.

(1970 Code,  7‑34; 2001 Code,  32‑153)

**32‑154 PLAYING BALL OR SKATING ON STREETS OR SIDEWALKS PROHIBITED.**

No person shall play ball or bat or catch ball on any of the streets or sidewalks of the town, nor shall any person skate on roller skates, inline skates or skateboards on either the streets or sidewalks anywhere within the corporate limits of the town.

(1970 Code,  7‑35; 2001 Code,  32‑154)

**32‑155 SIDEWALKS IN BUSINESS AREAS.**

The owners or occupants of improved property used for business purposes, such as banks, theaters, hotels, barbershops, stores or offices, which have paved or improved sidewalks fronting the places, shall sweep and clean the sidewalks daily; and, at the close of business each Saturday night, all sidewalks fronting the places of business shall be cleaned.

(1970 Code,  7‑31; 2001 Code,  32‑155)

**32‑156 SNOW AND ICE REMOVAL.**

Every occupant of a store or office building, or any other person covered by  32‑155, in front of which business the sidewalk is paved with stone, brick, asphalt or cement, shall remove snow, ice or other obstruction from the sidewalk at the earliest possible time and as soon as weather permits.

(1970 Code,  7‑32; 2001 Code,  32‑156)

**32‑15732‑180 RESERVED.**

***ARTICLE VI. BLOCK PARTIES***

**32‑181 DEFINITIONS.**

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

***BLOCK PARTY.*** Any event that is held outside of a residence or commercial building that is not fully contained on one individual property location or is held in the front of the property and having any chance to flow into a public right‑of‑way.

***PUBLIC RIGHT‑OF‑WAY.*** Any area owned by the town, including, but not limited to, parks, streets and roadways, alleyways, ditches, fields, sidewalks and cemeteries.

***TOWN.*** Town of Maxton.

***TOWN LIMITS.*** The area found within the legally recognized town boundaries, as defined and allowed by state statute or local act.

(2001 Code,  32‑181) (Ord. 2001‑02, passed 4‑10‑2001)

**32‑182 REQUIREMENTS TO HOLD A BLOCK PARTY WITHIN THE TOWN LIMITS.**

The requirements to hold a block party within the town limits are as follows:

(A) The Chief of Police or his or her designee, prior to commencement of the block party, must approve all block parties. Any request for approval shall be made at least 48 hours in advance of the date the event is to take place. Under no circumstances may an approval be granted in less than the required 48‑hour request period;

(B) Name of responsible person who is in charge of the party. The needed information shall include name, address, proper form of identification and telephone number. If the block party is to occur in a residential area, no person who does not live in the specified residential area may be in charge of the block party. No minor may be in charge of a block party at any time;

(C) The applicant must present a clear plan detailing the area where the event is to occur. The plan shall include, at a minimum, the area boundaries where the block party will occur. This description may be done using street names, property owners names or addresses or other defining features that interested parties can recognize;

(D) Exact date and start and stop times that the block party will be held;

(E) Exact street names of any streets that applicant wishes to have closed during the block party;

(F) Number of people expected to attend the block party. This information will be used to determine adequacy of the area, anticipated additional needs and to control crowd size during the event;

(G) A description of the kinds and types of entertainment scheduled for the event. Will the entertainment be live or recorded and the like;

(H) A plan for litter and debris control and how the area will be cleaned upon completion of the event; and

(I) A detailed statement showing how the safety and security of the participants, bystanders and residents will be assured.

(2001 Code,  32‑182) (Ord. 2001‑02, passed 4‑10‑2001)

**32‑183 METHOD USED FOR APPROVAL OR DENIAL OF A BLOCK PARTY APPLICATION.**

Upon receipt of the application, the Chief of Police or his or her designee will take the following steps to determine whether the block party may be approved. At the discretion of the Chief of Police or his or her designee, additional information may be requested and additional criteria may be used to determine whether an application is approved or denied.

(A) A survey of the area residents shall be conducted to determine effect on the area of the proposed block party.

(B) A review of the safety and security measures shall be completed to assure adequate efforts are in place.

(C) A review of the litter control plan shall be completed.

(D) A review of the effect on the flow of traffic and whether adequate alternate routes are available shall be completed.

(E) A determination shall be made whether the requested block party violates town curfews.

(F) A determination of the effects of the associated noise to the immediate and adjacent areas shall be made.

(2001 Code,  32‑183) (Ord. 2001‑02, passed 4‑10‑2001)

**32‑184 NOTIFICATION OF DECISION.**

After a review of the total application process is made, the applicant shall be notified of the decision by telephone or in person and by first class mail.

(A) If the application is denied, the applicant shall receive, in writing, the reasons for the denial.

(B) If the application is approved, additional or conditional requirements may, at the discretion of the Chief of Police, be placed on the block party to assure proper control, security, safety or quality of life in the neighborhood. Any additional requirements shall be in writing with a recommendation stating a proposed implementation plan.

(2001 Code,  32‑184) (Ord. 2001‑02, passed 4‑10‑2001)

**32‑185 APPEAL OF THE CHIEF OF POLICE DECISION.**

(A) All appeals of a decision of the Chief of Police shall be to the Town Manager. The Town Manager shall look at the original request, the reasons for approval or denial and the reasons stated for the appeal. The Town Manager may then either affirm or overturn the decision of the Chief of Police.

(B) Decisions of the Town Manager may be appealed to the board at the next regularly scheduled meeting. The appellant must request in writing to the Town Manager to be placed on the agenda. The request must give the applicants reason for wanting to appeal the decision of the Town Manager.

(2001 Code,  32‑185) (Ord. 2001‑02, passed 4‑10‑2001)

**32‑186 FEES AND DEPOSITS.**

(A) The town may choose to charge the applicant for placement of adequate refuse containers at the site.

(B) A deposit as determined by the annual budget ordinance, to cover any costs incurred by the town to clean up after a block party, shall be collected in advance payable to the Town General Fund or paid in cash at the town hall to a town cashier. The deposit or any portion thereof shall be refunded to the responsible person within five days after the block party.

(C) The town may choose to charge for additional security requirements if overtime is required to assure security and safety at the block party.

(D) Under no circumstance shall any fees charged or donations be paid to the Chief of Police or the Police Department.

(2001 Code,  32‑186) (Ord. 2001‑02, passed 4‑10‑2001)

**32‑187 LIABILITY OF THE TOWN.**

Town approval of any block party application in no way places any additional liability on the town other than that liability covered under statute. The town assumes no additional liability for injury, safety of the property or persons attending the party and makes no declaration by the approval that the area is deemed safe and secure.

(2001 Code,  32‑187) (Ord. 2001‑02, passed 4‑10‑2001)

**32‑188 LIABILITY OF THE APPLICANT AND PARTICIPANTS OF THE BLOCK PARTY.**

Any approval to conduct a block party by the town does not waive any other legal obligation of the participants to obey the statutes, ordinances and criminal laws that govern the area.

(2001 Code,  32‑188) (Ord. 2001‑02, passed 4‑10‑2001)