

## CHAPTER 95: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

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*IN GENERAL***§ 95.01 ENCROACHMENT ON STREETS.**

It shall be the duty of the Town Administrator to notify all persons about to erect any buildings, sidewalks, walls or fences near the street or any public way or alley not to encroach that street or public alley and if, in the opinion of the Town Administrator, any obstruction is being, or has been, constructed on any street or public alley, the Town Administrator shall cause a survey of the line of that street or alley to be made by a competent surveyor; and if the survey shall show that the street or alley is obstructed by that building, sidewalk, wall or fence, the owner shall be required to pay the costs of the survey and remove all obstructions at once. Every person who shall be found to have encroached on any street or public way or alley by those buildings, sidewalks, walls or fences, and refuses or neglects to remove the same upon notice from the Town Administrator within one week from the date thereof, shall upon conviction be guilty of a misdemeanor.

(1993 Code, § 62-1)

**§ 95.02 SHEDS, AWNINGS.**

No person shall erect or repair over any sidewalk or street any wooden shed or awning or any wooden shed for the support of an awning or erect upon any street or sidewalk any post for the support of any awning. If any person shall violate this section then each day that the above forbidden structure shall remain after notice shall constitute a separate violation; provided, that this shall not be construed to prevent the erection over the sidewalk of cloth or metal awnings supported upon metallic frames firmly suspended from the building, and at least seven feet above the level of the sidewalk.

(1993 Code, § 62-2) Penalty, see § 10.99

**§ 95.03 GATES OPENING ONTO STREETS AND SIDEWALKS.**

No gate to any residence, lot or other enclosure shall swing or open outward over the street or sidewalk. Each day any gate is allowed to open outward over the sidewalk or street shall constitute a separate offense.

(1993 Code, § 62-3) Penalty, see § 10.99

**§ 95.04 PLACING OBJECTS ON STREETS AND SIDEWALKS.**

It shall be unlawful for any person to store, pile, deposit, erect, keep or place, or cause, permit or suffer to be stored, piled, deposited, erected, kept or placed upon any sidewalk in the town any wood, coal, boxes, barrels, stone, brick, lumber, dirt, merchandise, shipping case, stand, stall, booth or show case or other obstruction of any kind, except as provided in this chapter or otherwise provided by law or ordinance.

(1993 Code, § 62-4) Penalty, see § 10.99

**§ 95.05 CONSTRUCTION NEAR SIDEWALK.**

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

(1993 Code, § 62-5)

**§ 95.06 ASSEMBLY ON SIDEWALK.**

All crowds or assemblages of persons that shall congregate on the streets or sidewalks of this town, thereby obstructing the street to the inconvenience of pedestrians shall be dispersed by the police. Any person who refuses to obey the warning of the police officer shall be deemed to violate this section.

(1993 Code, § 62-6)

**§ 95.07 IMPEDING TRAVEL.**

No person shall obstruct or impede travel on any street in the corporate limits of the town.

(1993 Code, § 62-7) Penalty, see § 10.99

*Statutory reference:*

*Obstructing highways and roads, see G.S. § 136-90*

**§ 95.08 DISPLAY OF GOODS.**

It shall be unlawful for any merchant or other person to exhibit or display any goods, wares or merchandise of any kind, or anything else upon the sidewalks of the town, or to leave any delivery cart, wagon or other vehicle standing in or upon any street or sidewalk in that portion as will impede traffic except with permission of the Town Administrator.

(1993 Code, § 62-8) Penalty, see § 10.99

**§ 95.09 SIDEWALK SALES.**

(A) All duly licensed merchants within the town housing businesses adjoining a sidewalk area shall have the right and privilege of conducting sidewalk sales subject to the following regulations:

(1) The display tables, racks and shelves, along with those articles of merchandise to be sold shall occupy the smaller of 1/3 of the sidewalk or three feet as measured from the outside wall of the store building toward the street.

(2) Each merchant desiring to conduct a sidewalk sale shall first register with the Town Clerk giving the date of the sale not less than one week in advance and for that sale to be not more than 24 hours in duration.

(3) Each merchant shall immediately abide by any request of the Chief of Police to remove the articles from the sidewalk at any time where the protection, safety and welfare of the general public may require the removal in the opinion of the Chief of Police.

(4) In no event shall any article of merchandise or the facilities for display thereof block or impede the use of the sidewalk for pedestrians.

(B) Any display of merchandise by any merchant not in conformity with this section shall be a misdemeanor.  
(1993 Code, § 62-9)

**§ 95.10 SIGHT ZONES; OBSTRUCTION OF VISIBILITY ON STREETS.**

The corner portion of each corner lot in the residential section fronting 15 feet on each street is hereby declared a sight zone for the benefit of motorists and it is unlawful for any person to place any item, wall, building or shrubbery within this zone that is or will become more than 36 inches in height. It shall also be unlawful for any person to plant any shrubbery or flowers within the grass plot adjacent to the aforesaid sight zone, which shrubbery or flowers will become more than 36 inches in height.  
(1993 Code, § 62-10)

**§ 95.11 PLANTING, PROTECTION OF TREES.**

Citizens may plant trees in front of their lots and around their lots; provided, they shall not plant any that are detrimental to the town. No plant or trees shall be planted between the sidewalk and street or in the streets or gutters. No person shall cut or damage any tree upon the sidewalks of the town without the permission of the Director of Public Works and Utilities or shall dig up or injure any tree or shall track or post any advertisement upon those trees of the town.  
(1993 Code, § 62-11)

**§ 95.12 RIDING BICYCLES PROHIBITED ON CERTAIN STREETS.**

It shall be unlawful for any person to ride a bicycle upon the sidewalks or walkways along both sides of Whitfield Street from Dennis Street on the west to Railroad Street on the east, and on the westerly side of Railroad Street from Whitfield Street on the south to Franklin Street on the north, and on the easterly side of Railroad Street from Market Street on the south to Whitaker Street on the north, and on both sides of Whitaker Street from Railroad Street on the west to McDaniel Street on the east.  
(1993 Code, § 62-12) Penalty, see § 10.99

**§ 95.13 INJURY TO STREETS, SIDEWALKS AND APPURTENANCES.**

(A) No person shall injure, deface or mar in any manner whatsoever any of the streets or sidewalks of the town. The town shall have the right and privilege to repair any injury, defacement or mar and assess the cost thereof against the offender.

(B) No person shall break, destroy or in any manner injure any light, pump, well or tree in any street or public place, or deface or in any manner injure any public building.  
(1993 Code, § 62-13)

***EXCAVATIONS***

**§ 95.25 PERMIT REQUIRED.**

No person shall make any excavation, cut or make any other opening in any of the streets or sidewalks without first having obtained a permit therefor from the Code Enforcement Officer.  
(1993 Code, § 62-66) Penalty, see § 10.99

**§ 95.26 FEES FOR CUTTING STREETS OR SIDEWALKS.**

The fees for cutting streets or sidewalks shall be determined from time to time by the Town Administrator as approved by the Board of Commissioners and shall be kept on file in the office of the Town Clerk.  
(1993 Code, § 62-67)

**§ 95.27 ADJUSTMENT OF FEES.**

When the opening is being made and it is found that the cut or opening will necessarily have to be larger than was estimated in the application, the applicant shall immediately pay the town the remainder of the fee that would have been charged for the opening or cut in the first instance.  
(1993 Code, § 62-68)

**§ 95.28 DISPOSITION OF FEES.**

All fees collected for the purpose of opening or cutting any street or sidewalk shall be paid into the general fund.  
(1993 Code, § 62-69)

**§ 95.29 PROTECTION OF OPENINGS.**

Any person excavating or opening any street or sidewalk shall protect the same with a sufficient number of traffic cones during the daytime and flashing amber lights at night.  
(1993 Code, § 62-70)

***Statutory reference:***

*Authority to regulate driveways and curb cuts, see G.S. § 160A-307*

**§ 95.30 RESTORATION.**

All openings made in any street or sidewalk under the provisions contained in this chapter shall immediately, upon the completion of the work, be filled in and the surface thereof made flush with the adjacent surfaces. Any hard surface, macadam or asphalt removed shall be replaced by the town at the expense of the applicant granted permission to open the street or sidewalk. Each day the opening is left unfilled in violation of this section shall constitute a separate offense.  
(1993 Code, § 62-71)

***POLES AND UTILITY LINES*****§ 95.40 SEPARATE LINES OR WIRES ON SAME POLES PERMITTED BY AGREEMENT.**

(A) Whenever any electric, telephone or cable television company shall desire to place lines or wires along any particular street upon which it does not have a line of poles, but upon that street there exists a line of poles owned by another company or the town, all parties may maintain their wires upon the same poles.

(B) If an agreement cannot be reached between the parties owning the poles and the parties desiring to place wires thereon, the parties may submit the question of compensation to the Board of Commissioners for determination.

(C) This section shall apply to poles owned by the town as well as poles owned by parties operating under franchises from the town.  
(1993 Code, § 62-91)

**§ 95.41 CARE, INSPECTION OF POLES.**

It shall be the duty of the owners of all poles supporting electric, telephone or telegraph wires, to keep the same in a safe condition, and for that purpose inspect the same once every three months.  
(1993 Code, § 62-92)

**§ 95.42 PERMIT REQUIRED FOR PLACING POLES.**

No poles for electric, telegraph, telephone or other purposes shall be placed on any street without a permit therefor being obtained from the town.  
(1993 Code, § 62-111)

**§ 95.43 PERMITS LIMITED TO SINGLE LINES.**

No permit shall be issued for the erection of poles on any street where there exists a line of poles on that street for the purpose of supporting electric, telephone or telegraph wires.  
(1993 Code, § 62-112)

***GRAFFITI***

**§ 95.50 FINDINGS AND PURPOSE.**

The Town of Enfield Board of Commissioners enacts this subchapter to help prevent the spread of graffiti vandalism. The Board finds that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community. Unless the town acts to remove graffiti from public and private property, the graffiti tends to remain. Other properties then become the target of graffiti, and entire neighborhoods are affected and become less desirable places in which to live, all to the detriment of the town. The Board intends, through the adoption of this subchapter, to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement.  
(Ord. 11-03, passed 4-18-2011)

**§ 95.51 DEFINITIONS.**

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**GRAFFITI.** Any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the Board of Commissioners.

**GRAFFITI IMPLEMENT.** An aerosol paint container, paint stick, paint and paint brush, or other such instrument commonly used to produce graffiti.  
(Ord. 11-03, passed 4-18-2011)

**§ 95.52 PROHIBITED ACTS.**

(A) *Defacement.* It shall be unlawful for any person to apply graffiti to any natural or manmade surface on any property owned by the town or, without the permission of the owner or occupant, on any other property.

(B) *Possession of graffiti implements in designated public places.* It shall be unlawful for any person to possess any graffiti implement while in or upon any public facility, park, playground, or other public property owned or operated by the town unless otherwise authorized by the town.  
(Ord. 11-03, passed 4-18-2011) Penalty, see § 95.99

**§ 95.53 GRAFFITI AS NUISANCE.**

(A) The existence of graffiti on public or private property in violation of this subchapter is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified herein.

(B) It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all times keep the property clear of graffiti.  
(Ord. 11-03, passed 4-18-2011)

**§ 95.54 REMOVAL OF GRAFFITI.**

(A) *Removal by the perpetrator.* Any person applying graffiti on public or private property shall have the duty to remove the graffiti within 24 hours after notice by the town or private owner of the



property involved. Such removal shall be done in a manner prescribed by the Town Administrator or his or her designee. Any person applying graffiti shall be responsible for the removal or for the payment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this subchapter. Where graffiti is applied by an unemancipated minor, the parents or legal guardian shall also be responsible for such removal or for the payment for the removal.

(B) *Property owner responsibility.* If graffiti is not removed by the perpetrator according to division (A), graffiti shall be removed by the person who is the owner of, or otherwise responsible for, property that has been defaced with graffiti within ten days after written notice by the town. The notice by the town shall contain the following information:

(1) The street address and legal description of the property sufficient for identification of the property;

(2) A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the finding; and

(3) A statement that the graffiti must be removed within ten days after receipt of the notice and that if the graffiti is not abated within that time the town will declare the property to be a public nuisance and will abate the nuisance itself.

(C) *Right of town to abate graffiti.* If the property owner or responsible party fails to remove the offending graffiti within the time specified by division (B), or if the town has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the town, the town shall commence abatement and cost recovery proceedings for the graffiti removal. Before entering upon private property or property owned by a public entity other than the town for the purpose of graffiti removal the town shall attempt to secure the consent of the property owner or responsible party.

(1) If the town secures such consent, the terms of the graffiti removal and cost incurred shall be determined between the town and the owner or responsible party.

(2) If the town cannot secure such consent, the Town Administrator or his or her designee shall provide the owner or responsible party not less than 48 hours notice of the town's intent to hold a due process hearing at which time such person shall be entitled to present evidence and assert that the property does not constitute a public nuisance. Notice shall be served in the same manner as a summons in a civil action in accordance with Rule 4 of the North Carolina Rules of Civil Procedure. If the owner of record cannot be found after a diligent search, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten days and publication thereof in a newspaper of general circulation published in the area in which the property is located. The determination of the Town Administrator after the due process hearing shall be final and not appealable. If, after the due process hearing, regardless of the attendance of the responsible party, the Town Administrator determines that the property contains graffiti viewable from a public or quasi-public place, the Town

Administrator shall give written notice in an eradication order that, unless the graffiti is removed within ten days, the town shall enter upon the property, cause the removal, painting over (in such color as shall meet with the approval of the Town Administrator), or such other eradication thereof as the Town Administrator determines appropriate, and shall provide the owner or responsible party thereafter with an accounting of the costs of the eradication effort on a full cost recovery basis. The owner or responsible party shall thereafter have ten days to dispute the cost assessment. If all or any portion of the assessed eradication charges remain unpaid after 30 days, the unpaid portion shall constitute a lien on the property that was the subject of the eradication effort and on any other real property owned by the person in default within the town limits or within one mile of the town limits, except the person's primary residence.

(Ord. 11-03, passed 4-18-2011)

### ***PUBLIC PARKS***

#### **§ 95.60 GENERAL REGULATIONS.**

No person shall engage in any of the following in any public park:

(A) Possess or discharge any firearm;

(B) Remain within or enter a public park after sunset and before sunrise, unless prior written approval has been issued by an authorized representative of the town. Any person on the premises of a public park during unauthorized hours shall be considered trespassing;

(C) Allow an animal to roam about the premises (pets are prohibited);

(D) Possess or consume any type of alcoholic beverage.

(Ord. 2011-01, passed 4-18-2011) Penalty, see § 95.99

#### **§ 95.99 PENALTY.**

(A) Violation of §§ 95.50 through 95.54 shall be punishable as provided by § 10.99 of this Code of Ordinances and shall be subject to a fine in the amount of \$500 per offense. Each item of tangible or personal property defaced by graffiti, and each graffiti implement possessed by an unauthorized user, shall each constitute a separate and distinct offense.

(B) Violation of § 95.60 shall be punishable as provided by § 10.99 of this Code of Ordinances. Each violation shall constitute a separate and distinct offense.

(Ord. 2011-01, passed 4-18-2011; Ord. 11-03, passed 4-18-2011)