

CHAPTER 93: STREETS AND SIDEWALKS

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GENERAL PROVISIONS

§ 93.01 BOARD APPROVAL OF NEW STREETS.

Before any new street offered for dedication to the town is accepted as such and officially recognized as a town-maintained street, the Board must give its approval, finding that:

- (A) The street complies with engineering standards set by the Board; and that
- (B) The best interests of the town would be served by accepting the street as a town street. (1978 Code, § 4-1001)

§ 93.10 TOWN OF JONESVILLE RIGHT-OF-WAY ABANDONMENT PROCESS

Overview

Upon request, the Town may consider abandonment of public Right of Way (ROW).

North Carolina General Statute (NCGS) 160A-299 gives the Town Board of Jonesville the authority to abandon street ROW following a public hearing and a determination that the abandonment:

- Is not contrary to the public interest.
- Does not deprive any individual(s) that own property nearby of reasonable means of ingress and egress to their property.
- Is contrary to the adopted policy to preserve existing ROW for connectivity.

The Town of Jonesville Planning Board is responsible for administering the Town's ROW Abandonment Program.

The majority of the Town's ROW has been dedicated to the Town, meaning that it was not purchased. When ROW is abandoned at these locations, the land is split evenly to the adjacent property owner(s), should the Town Board approve the abandonment request.

Typically, ROW requested for abandonment is:

- Unimproved, unopened ROW that has no pavement, curb/gutter or sidewalk.
- ROW that exceeds the minimum width requirements, based on street classification.
- Residual (leftover) ROW resulting from a street or intersection realignment project.
- ROW that is not necessary to support the Town's street connectivity policy.

Process

The Town's review process takes approximately 3-4 months. Some of the items that are included in the review process are:

- Applicant submits Right of Way Abandonment Petition Form (and requirements as outlined below).
- Form is routed to Planning Board for recommendation.
- The Town Board may adopt a resolution on intent to close the road (portion thereof).
- Notification and request for comments to adjacent/abutting property owners by registered or certified mail.
- Notification and request for comments to all public and private facilities.
- Notification and request for comments to neighborhood and business associations within the vicinity.
- Call public hearing.
- Advertise as a legal notice once a week for four weeks.
- Vote by Town Board.
- The Town Board may adopt an order closing the street (a copy of which would be recorded at the register of deeds).

Right of Way Abandonment Petition Requirements

- A cover letter to include contact information (name, address, phone number) for the petitioner.
- One completed and signed original copy of the Right of Way Abandonment Petition.
- Scaled drawings of a survey showing the ROW to be abandoned, including a vicinity map. The survey shall be labeled Exhibit A and shall be signed and sealed by a licensed professional land surveyor. All drawings must be a size acceptable for recordation at the Yadkin County Register of Deeds (18"x 24", 21" x 30", and 24" x 36")
- A Metes and Bounds description of the ROW to be abandoned. The description shall be labeled Exhibit B and shall be signed and sealed by a duly licensed professional land surveyor.
- Memorandum of Understanding signed by all the abutting property owners, including address and parcel number.
- Check payable to the Town of Jonesville in the amount of \$500 for the first ROW plus \$250 for each additional ROW.

ATTACHMENT A

PETITIONER'S PROCEDURES FOR REQUESTING THE CLOSING OF DEDICATED STREETS AND ALLEYWAYS

1. To initiate the process to close a street or alley, or any portion thereof, petition shall be filed between the hours of 8:00am and 5:00pm, Monday through Friday with the:

Town of Jonesville
1503 NC Hwy 67
Jonesville, NC 28642
Telephone No. (336) 835-3426

2. The following documents shall be included with the petition:
 - a. A legal survey identifying the area to be abandoned. The boundaries of the right-of-way shall be described on the survey map. Include a note on the survey map giving the source of the boundary information. Dimensions shall be shown which clearly define the location of the right-of-way subject to abandonment. The survey map shall also show the names of all abutting/adjoining property owners to the abandonment area. The original survey map should be labeled "Exhibit A" and be on paper to a size acceptable for recordation at the Yadkin County Register of Deeds (18"x 24", 21" x 30", and 24" x 36"). The legal description (metes/bounds) should be labeled "Exhibit B". In the event that multiple streets/alleyways are submitted, the original survey maps should be labeled "Exhibits A-1, A-2E" and the legal descriptions (metes/bounds) labeled "Exhibits B-1, B2E"
 - b. An agreement of understanding (attached) signed by the owners of all abutting/adjoining property to the area proposed for abandonment.
3. If this abandonment petition is affiliated with a proposed development project, the following information must be provided under item #1:
 - a. Development project name (if subdivision, provide subdivision approval date)
 - b. Type of Project (Single family, Multi-family, Commercial)
 - c. Rezoning petition number/Council approval date
4. The petition is to be typed on 8 ½" x 11 white paper with a cover letter giving the name, address and telephone number of the person to be contacted if additional information is required.
5. The application fee required to begin the abandonment process review is \$500.00 for one (1) street or alleyway. Petitions consisting of multiple streets or alleyways will be charged \$500.00 for the first street or alleyway plus \$250.00 for each additional street or alleyway. This filing fee, once submitted, is non-refundable.

STATE OF NORTH CAROLINA

COUNTY OF YADKIN PETITION

TO THE MEMBERS OF THE TOWN COUNCIL OF JONESVILLE, YADKIN COUNTY, NORTH CAROLINA

(Name of petitioner) _____ respectfully files this Petition and requests that (a portion or all of),

(Name of street or location of alley) _____ lying

(general description of location) _____

_____ as shown

on the map attached hereto and made a part hereof marked "Exhibit A", be closed and abandoned in accordance with the provisions of Chapter 160A, Section 299, subsection (a) of the General Statutes of North Carolina.

In support of this Petition, your petitioner respectfully alleges that:

1. (Give reason for requested closing)

2. The closing of _____ Street is not contrary to the public interest.
3. No individual, partnership or corporation owning property in the vicinity of _____ Street or in the subdivision in which it is located will be deprived of reasonable means of ingress and egress to his or its property by virtue of the closing.
4. The street (or portion thereof) which petitioner requests be closed and abandoned is more particularly described by interested bounds in "Exhibit B", attached hereto and made a part hereof.
5. The street (or portion there of), requested to be closed and abandoned has not been previously accepted by the North Carolina Department of Transportation for maintenance.

Wherefore, petitioner respectfully requests the Town Council of the Town of Jonesville consider this Petition and set the time for public hearing upon this matter as required by law.

Respectfully submitted the _____ day of _____, _____

(Signature of petitioner)

(Print Name)

Address: _____

Telephone Number: _____

EXCAVATION AND REPAIR

§ 93.20 EXCAVATIONS.

(A) *Permit required.* No person shall make any excavation or opening or dig any ditch, trench, tunnel or hole in, along, across or under any street, sidewalk or other public place for the purpose of laying or placing therein any pipe, wires or poles or for any other purposes unless a written permit therefore has been issued by the town. (1978 Code, § 4-1011)

(B) *Application for permit; fees.* All persons desiring a permit to make an opening in any street or sidewalk, as set forth in division (A) of this section, shall make written application therefor, which application shall show the location of the proposed opening, the purpose therefor and the approximate number of square yards of surface to be cut. (1978 Code, § 4-1012) **Statutory reference:**

Establishment and control over municipal streets, see G.S. § 160A-296

§ 93.21 LIABILITY FOR EXCAVATIONS.

Any person obtaining a permit as provided for in § 93.20 herein agrees as a condition of the issuance of the permit to indemnify the town against any claims or expenses, including attorney's fees for bodily injury or property damage for accidents or occurrences arising out of the person's operations, excluding only the liability of the town for its sole negligence.

(1978 Code, § 4-1013)

§ 93.22 STREET REPAIR; AFTER EXCAVATION.

When any part of any street, sidewalk, alley or other public place of the town shall be torn or dug up for any purpose, the person making the excavation or opening shall have the duty of refilling the excavation or opening, and the refilling shall be done in accordance with the standards and specifications issued by the town.

(1978 Code, § 4-1014)

§ 93.23 LEAVING EXCAVATIONS UNPROTECTED.

It shall be unlawful for any person, firm or corporation who obtains a permit under this subchapter to do any excavation of any kind which may create or cause a dangerous condition in or near any street, alley, sidewalk or public place of the town without placing and maintaining proper guard rails 3 feet from the ground and signal lights or other warnings sufficient to warn the public of the excavation or work and to protect all persons using reasonable care from injuries. (1978 Code, § 4-1015) Penalty, see § 10.99

§ 93.24 STREETS NOT TO BE DAMAGED.

It shall be unlawful for any person, firm or corporation to drag, or run or cause to be dragged or run any implement, engine, machine or tool upon any asphalt or other type of permanently paved street of the town which shall be liable in any way to injure or cut the surface thereof. (1978 Code, § 4-1016) Penalty, see § 10.99

§ 93.25 SIDEWALK CONSTRUCTION.

No sidewalk shall be built by any individual, firm or corporation of any brick, wood or other material without a written permit from the town.

(1978 Code, § 4-1017)

§ 93.26 HOUSE MOVING.

No person shall move any house or building upon or across the public streets or sidewalks without the written consent of the Board and the deposit of a good and sufficient bond to cover damage done to any street or sidewalk or to any property of any person.

(1978 Code, § 4-1018)

§ 93.27 DAMAGE TO MUNICIPAL PROPERTY.

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

(1978 Code, § 4-1019)

§ 93.28 DRIVEWAYS.

(A) *Permit required.* No person shall begin to construct, reconstruct, repair, alter, or grade any driveway on the public streets, unless a written permit therefore has been issued by the manager or some other officer of the town vested with such authority. (1978 Code, § 4-1020)

(B) *Application.*

(1) All persons desiring a driveway permit shall make application therefore, which application shall show:

(a) The name and address of the owner or agent in charge of the property abutting any proposed work area;

(b) The name and address of the party doing the work;

(c) The location of the work area;

(d) Attached plans showing details of the proposed alteration;

(e) The estimated cost of the alteration; and

(f) Other information as the issuing town officer shall find reasonably necessary to the determination of whether a permit should issue hereunder.

(2) The application shall be accompanied by a fee which shall be established by the Board. (1978 Code, § 4-1021)

- (C) *Standards.* The issuing town officer shall issue a permit hereunder when he finds:
- (1) That the plans for the proposed operation have been approved by the appropriate official of the town;
 - (2) That the work shall be done according to the standard specifications of the town for public work of like character;
 - (3) That the operation will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of egress to and from the property affected and adjacent properties; and
 - (4) That the health, welfare and safety of the public will not be unreasonably impaired.
(1978 Code, § 4-1022)

OBSTRUCTIONS

§ 93.40 ASSEMBLY ON STREETS AND SIDEWALKS.

Except as provided in chapter, it shall be unlawful for crowds or assemblages of persons to congregate on the streets or sidewalks of the town in such a way as to unnecessarily interfere with pedestrian or vehicular traffic. Any person refusing to disperse upon being so ordered by a police officer shall be guilty of a misdemeanor.

(1978 Code, § 6-2001) Penalty, see § 10.99

§ 93.41 DISPLAY OF GOODS PROHIBITED.

It shall be unlawful for any person, firm or corporation to place or set out for exhibition any goods, wares, or merchandise directly connected with the business transacted by him on the sidewalk in front of a place of business, store or building owned, controlled or occupied by him. (1978 Code, § 6-2002) Penalty, see § 10.99

§ 93.42 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.

(1978 Code, § 6-2003)

§ 93.43 REPAIR OF MOTOR VEHICLES.

It shall be unlawful for any person, firm or corporation to repair a motor vehicle on a paved street of the town except in case of emergency.

(1978 Code, § 6-2004) Penalty, see § 10.99

§ 93.44 GAMES IN STREETS.

No person shall play baseball, football or any other game of ball or shall pitch or catch a ball on any street or sidewalk within the corporate limits of the town.

(1978 Code, § 6-2005)

USE AND CLEANLINESS

§ 93.55 LITTERING PROHIBITED.

(A) *Generally.* It shall be unlawful for any person, firm, organization or private corporation to throw or deposit upon any street or sidewalk, or upon any private property, except with written permission of the owner or occupant of the private property, any trash, refuse, garbage, building material, cans, bottles, broken glass, paper, or any type of litter.

(1978 Code, § 6-2011)

(B) *From vehicles.* It shall be unlawful for any person while a driver or a passenger in a vehicle to throw or deposit litter upon any street or other public place within the town or upon private property.

(1978 Code, § 6-2012) Penalty, see § 10.99 *Statutory reference:*

Authority to regulate littering, see G. S. § 160A-303.1

§ 93.56 MAINTENANCE OF PUBLIC AREAS.

(A) *Generally.* Every owner, lessee, tenant, occupant or other person in charge of any commercial establishment or premises which maintains any paved or unpaved areas for the use of the public, either for parking or as access areas and incident to the carrying on of the principal business of any commercial establishment or premises and which parking or access areas abut or lie within 10 feet of any public street or other public way shall keep and maintain the areas clean and free from trash, litter, rubbish and any materials liable to be blown, deposited or cast upon the street or other public way.

(1978 Code, § 6-2013)

(B) *Receptacles.* Suitable receptacles may be provided in parking or access areas within the meaning of division (A) of this section. The receptacles shall be plainly marked and constructed to prevent scattering of any trash, litter, rubbish or other materials deposited therein.

(1978 Code, § 6-2014)

PARADES AND DEMONSTRATIONS

§ 93.70 DEFINITIONS.

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

BLOCK. That portion of any street lying between its intersections with other streets.

GROUP DEMONSTRATION. Any assembly together or concert of action between or among 2 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 of the assembly.

PARADE, Any assemblage of 2 or more persons participating in or operating any vehicle in any 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 2 or more persons formed together for the purpose of making known any position or promotion of the persons or on behalf of any organization or class of persons. (1978 Code, § 6-2021)

§ 93.71 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 therefore has been issued by the town in accordance with the provisions of this subchapter.

(1978 Code, § 6-2022) Penalty, see § 10.99

§ 93.72 STANDARDS.

The Chief of Police shall not issue a permit for the proposed parade if he finds that:

- (A) The parades, picket lines or group demonstrations are to commence before 6:00 a.m. or terminate after 5:00 p.m.; or
- (B) The parades or group demonstrations are to be held at the same time and place as those designated in a permit issued pursuant to a written application previously received by the Chief of Police or his designee; or
- (C) The conduct of the parade will substantially interrupt the safe and orderly movement of other traffic contiguous to its route; or

- (D) The concentration of persons, animals and vehicles at assembly points of the parade will substantially interfere with adequate fire and police protection of, or ambulance service to, areas contiguous to the assembly areas; or
 - (E) The conduct of the parade is reasonably likely to result in violence to persons or property causing serious harm to the public; or
 - (F) The parade is to be held for the primary purposes of advertising a product, good, or event and is designed to be held primarily for private profit; or
 - (G) The conduct of the parade will interfere with the movement of firefighting equipment to such an extent that adequate fire protection cannot be provided to the town.
- (1978 Code, § 6-2023)

§ 93.73 REQUIREMENTS AND ISSUANCE OF PERMITS.

The Chief of Police or his designee shall issue permits as required in the preceding section, and in the issuance thereof he shall:

- (A) Require a written application for a permit to be filed not less than 24 hours in advance of the parade, picket line, or group demonstration which application shall specify the time and place for the commencement of any picket line and the time, place, route, and duration of any parade or group demonstration;
- (B) Require that the application for a permit specify whether or not minors below the age of 18 years will be permitted to participate;
- (C) 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 at that time. The permit shall not be valid in the possession of any other person.

(1978 Code, § 6-2024)

§ 93.74 CERTAIN ACTIVITIES PROHIBITED.

The following acts or activities, when performed or undertaken in conjunction with or as a part of, any parade, picket line, or group demonstration, are hereby prohibited and declared unlawful:

- (A) The carrying on or about the person any firearm, or any weapon or article, including but not limited to blackjacks, nightsticks, or flashlights which by their use might constitute a deadly weapon;
- (B) The taking or keeping of any dog or other vicious animal, whether leashed or unleashed.

(1978 Code, § 6-2025)

§ 93.74 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 § 93.74;
- (B) The failure to comply with the terms and conditions of the permit, (1978 Code, § 6-2026)

§ 93.76 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. (1978 Code, § 6-2027)

§ 93.77 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 sidewalks reserved for pedestrian movement and may not be conducted on the portion of a street used primarily for vehicular traffic;
- (B) Not more than 10 pickets promoting the same objective shall be permitted to use either of the 2 sidewalks within a single block at any 1 time;
- (C) Pickets may carry written or printed placards or signs not exceeding 2 feet in width and 2 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 must not march closer together than 15 feet, except in passing one another.
(1978 Code, § 6-2028)

§ 93.78 EXCEPTIONS.

This subchapter shall not apply to:

- (A) Funeral processions;
- (B) Any governmental agency acting within the scope of its functions. (1978 Code, § 6-2029)