

**An Ordinance Amending Chapter 24 - Streets and Sidewalks
Of the Code of Ordinances of the Town of Weaverville
To Regulate Driveways, Sidewalks, and Street Cuts**

Whereas, the Town of Weaverville has the power to regulate streets and sidewalks pursuant to the authority set forth in North Carolina General Statute section 160A-296; and

Whereas, the Town Council of the Town of Weaverville deems it in the best interest of the citizens of the Town of Weaverville to regulate street cuts, driveways and sidewalks; and

Whereas, regulation of such will ensure that future street cuts are suitable to town standard in addition to addressing drainage issues with driveways and sidewalks without being cumbersome to private property owners.

Now, Therefore, Be it Ordained by the Town Council of the Town of Weaverville as follows:

1. The Code of Ordinances of the Town of Weaverville be and is hereby amended by adding a new Article II to Chapter 24 as follows:

Article II Chapter 24 Driveways

Sec. 24-7. - 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:

Commercial or industrial driveway means a driveway providing vehicular ingress and egress to and from property used for purposes other than residential.

Residential driveway means a driveway providing vehicular ingress and egress to and from property used for residential purposes.

Width, as applied to a driveway, means the width where it crosses an existing sidewalk or area within the technical sidewalk lines as established by the Public Works Director.

Sec. 24-8. - Permit.

- (a) Required. No person shall pave a driveway across any public sidewalk, walkway or parkway, or into any street, nor cut any curb for the construction of a driveway, without first having obtained a permit therefor.
- (b) Permit. No person shall construct a driveway across any public sidewalk, walkway, or parkway or into any street, or cut any curb for such purpose, without having first applied for and obtained a permit from the Public Works Director. Those seeking a permit must be named as the property owner or designee. The application shall show, among other things, the location, grade, dimensions, and the construction or reconstruction of sidewalks abutting the driveway, and the

purpose for which the driveway is desired. If the application complies with provisions of this part, the permit shall be issued.

- (c) Existing driveways. Existing driveways shall not be relocated, altered or reconstructed without a permit approving the relocation, alteration or reconstruction, and such driveways shall be subject to the limitations set forth in this article.

Sec. 24-9. - Standards.

- (1) Refer to standard specifications and requirements as provided by the Town of Weaverville Public Works Department.

Sec. 24-10. - Maintenance and repairs.

Responsibility for maintenance and repairs to driveway entrances or exits shall rest with the property owner. Upon receipt of a notice to repair damaged pavement, the property owner shall complete the necessary repairs within forty-five (45) days in accordance with the requirements set forth in this article. The Public Works Director may grant an extension of up to fifteen (15) days.

The Public Works department shall be responsible for conducting periodic inspections of the project during the progress of the work. The permittee shall notify the Public Works Director when work has been completed and request a final inspection. The Public Works Director shall make the final inspection to determine that streets, sidewalks, alleys, squares or other public rights-of-way are restored to town standards, and that all debris, materials, tools and equipment are removed therefrom.

Sec. 24-11 - Appeals.

Decisions of the Public Works Director under this article may be appealed by the applicant in writing to the Town Manager, whose decision shall be final.

- 2. Adding a new Article III to Chapter 24 to read as follows:

Article III Chapter 24 Sidewalks

Sec. 24-12. – Maintenance and repairs.

The department of Public Works shall maintain and repair the paved sidewalks located within the rights-of-way accepted for maintenance by the Town.

The Public Works department shall be responsible for conducting periodic inspections of the project during the progress of the work. The permittee shall notify the Public Works Director when work has been completed and request a final inspection. The Public Works Director shall make the final inspection to determine that streets, sidewalks, alleys, squares or other public rights-of-way are restored to town standards, and that all debris, materials, tools and equipment are removed therefrom.

Sec. 24-13. - Draining water from sidewalks.

No property owner or tenant shall discharge the water collected on buildings or otherwise across any paved sidewalk in the town, excepting the natural and normal flow

falling on the ground. The property owner or tenant shall at his own expense install pop up drain valves a minimum of fifteen (15) feet from edge of sidewalk or route gutter drains to natural drainage away from sidewalks. Maintaining said drains shall be the sole responsibility of both the property owner and tenant. Should any drain need any repair or the sidewalk need any repair at or about the drain the department of Public Works shall immediately be given the location of the drain and the repairs needed.

Sec. 24-14. - Drains and gutters to be attached to porches, awnings, etc.

Any person owning or occupying a building with eaves, porches or porticos projecting or extending over the sidewalk or street shall place proper drains and gutters so as to prevent water from falling on the sidewalk or street and shall place underground drains for carrying off water from all gutters and shall not place any awning over the streets or sidewalks so as to allow water to drip on same.

Sec. 24-15. - Open drains.

In the maintenance of open drains the policy of the town shall be as follows: It shall be the duty of the property owner through which such ditch runs to deliver the water to the upper end of the town's drain, and he shall do whatever work is necessary to the ditch to accomplish this purpose. After the water is delivered through the property owner's drain to the lower owner of the ditch, it shall be his duty to keep the ditch in such condition as to continue the unimpeded flow of the water off his premises and so on down the ditch.

3. Adding a new Article IV to Chapter 24 to read as follows:

Article IV Chapter 24 Street Cuts

Sec. 24-16- Permit Required

No person shall cut into any street, sidewalk, alley, square or other public right-of-way which has been accepted for maintenance by the Town for any purpose, including but not limited to installation of and repair to utility systems, or disturb the right-of-way by removing any dirt, sod, sand or paving material therefrom or otherwise disturb the right-of-way, without first obtaining a cut permit from the Public Works Director.

Sec. 24-17. - Permit application; extension of time; penalty

- (a) Permit applications shall be completed and filed with the Public Works Department.
- (b) If the cut work extends beyond ten working days, excluding weather days, a penalty as set forth herein, shall be assessed. The Public Works Director may grant extensions provided the extension is requested in writing at least 48 hours prior to the permit deadline. All extensions must be approved in writing.
- (c) If a project is scheduled to last more than ten working days, the permittee shall submit detailed information that defines the scope of the project, a map or sketch showing the precise location of the project, the name of the contact person who will be on site at all times, etc., prior to obtaining a cut permit.
- (d) Any person who cuts into a public right-of-way without first obtaining the cut permit required by this article, shall be charged a penalty as described below. Provided, however, emergency repair cuts to an existing utility may be made without a permit in hand provided the permit is obtained by the close of the next business day after

the cut is made. In the event the emergency work cut permit is not obtained within the time period set forth herein, the penalty as well as the regular permit fee shall apply.

- (e) If an entire road is to be blocked during a cut, the permittee must obtain a street blocking permit from the Public Works Director before issuance of a cut permit.
- (f) The penalty for any person/permittee who exceeds the time limit set forth in the cut permit or who fails to timely obtain a cut permit following an emergency repair or who cuts into a public right-of-way without a cut permit is \$100.00 per day, per permit, per project.

Sec. 24-18 - Restoration; costs

- (a) Any person who shall cut into any street, sidewalk, alley, square or other public right-of-way which has been accepted for maintenance by the Town shall restore the cut in accordance with the standards and specification set forth in the Town's standard specifications. In any event, the final cut must be rectangular or square in shape. L- or T-shaped cuts are prohibited. Cuts into town streets shall have a full width overlay for any cuts that extend beyond one travel lane or for those streets that have been resurfaced within three years prior to the date of the permit. The total length of the overlay must be a minimum of 35 feet in length. Projects shall be designed to the extent possible, so as not to locate utility poles, hydrants, valves and manholes on sidewalks.
- (b) The Public Works department shall be responsible for conducting periodic inspections of the project during the progress of the work. The permittee shall notify the Public Works Director when work has been completed and request a final inspection. The Public Works Director shall make the final inspection to determine that streets, sidewalks, alleys, squares or other public rights-of-way are restored to town standards, and that all debris, materials, tools and equipment are removed therefrom. All cuts shall be warranted by the person, corporation or company making the cut for a period of two years from the date of final approval which warranty shall be in writing and include an indemnification clause, agreeing to indemnify and hold the Town harmless from any such claims during the two-year warranty period.
- (c) The permittee or person causing the cut shall remain solely responsible for any and all costs incurred in restoring the street, sidewalk or public right-of-way to Town standards.
- (d) Upon the failure of any person to restore a street, sidewalk, alley, square or other public right-of-way which has been accepted for maintenance by the Town to Town standards, the Town will:
 - 1. Provide written notice that the cut is not acceptable;
 - 2. Allow ten days for the person to repair the cut; and
 - 3. Perform a re-inspection after ten days. If the work is not completed to Town standards, the Public Works Director will order the completion of the work by the Town and recover 120 percent of the actual cost to restore the cut from the permittee in addition to penalties already incurred and/or take such other legal action as is necessary to correct the violation.

Sec. 24-19. - Permit exclusions.

The following activities do not require a permit under this article:

- (a) Buried service lines perpendicular to the street resulting in a trench width of six inches or less which do not involve the cutting of the sidewalk, street, or other street appurtenance;
- (b) Pole placement and removals which do not involve the cutting of the sidewalk, street or other street appurtenances; and
- (c) Installation of replacement poles.

Sec. 24-20. - Appeal process.

In the event that an applicant or permittee disagrees with a fee or penalty that is assessed, notice must first be given to the Public Works Director in writing within ten working days of the fee or penalty being assessed, setting forth the basis of the disagreement. If the response received from the Public Works Director is not satisfactory, an appeal may be taken to the Town Manager or his designee within ten days of receipt of the public work Director's written response. The Town Manager or his designee's decision shall be final.

4. **Severability Clause**

It is the intention of the Town Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since they would have been enacted by the Town Council without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

5. **Effective Date.**

This ordinance shall become effective on December 1, 2012; however it shall not apply to any sidewalk constructed prior to that date.

Read, approved and adopted this the 17th day of September, 2012.

Allan P. Root, Mayor

Shelby Shields, Town Clerk