



Town of Surf City

Teresa B. Batts, Mayor
Donald R. Helms, Mayor Pro-Tem
John Koloski, Councilman

William J. (Buddy) Fowler, Councilman
Jeremy Shugarts, Councilman

Appendix A Section 3.4 Definitions

Driveway: The vehicular access way between the edge of pavement and the property line.

Street right-of-way: Street right of way shall mean any public right of way set aside for public travel which is accepted or eligible to be accepted for maintenance by the State of North Carolina or the Town of Surf City if so authorized; or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the town; or has otherwise been established as a public street prior to the adoption of this ordinance.

Street Line: The right of way line of a street.

Appendix A Section 5.1.5 Driveways.

a) Improvement to existing residential driveways will not be required to submit engineered plans if pervious materials are used. Any other materials used will require an engineered plan for stormwater management. Materials acceptable for driveways shall include pervious concrete, gravel, stone, or any other pervious material.

b) *Driveway width.* The maximum width of a driveway is twenty-four (24) feet in width at the street. On roadways maintained by the NC DOT, the maximum width shall be determined by the NC DOT permitting office.

c) *Stormwater permits.* A separate stormwater permit must be obtained for all new driveways.

d) Driveways are considered as the area contained on the property as well as the adjacent right of way the driveway crosses.

(Ord. No. 2006-19, 4-4-06; Ord. No. 2010-07, § 4, 5-4-10; Ord. No. 2016-03, § 1, 5-3-16; Ord. No. 2020-10, 12-1-20)

Existing Chapter 16 Ordinances Related to Right of Way

Sec. 16-4. Encroachment by buildings, fences, walls, etc.

(a) No building, fence, walls, landscaping, unauthorized signage, or any other structure or fixture shall encroach upon or use any part of the public streets or other public places within the town.

(b) An 8-10' clear zone determined by the street being designated as either a local street or collector street shall be kept clear at all times and in the event an obstruction is placed within the designated zone it shall be removed upon first observation in the interest of public safety and at the expense of the property owner.

(c) All encroachments between the clear zone and the street line (right-of-way of street) will result in the issuance of a notice of violation.

(d) Mailboxes are exempt and must be placed in an area approved by the USPS.

(Code 1977, § 25-4; Ord. No. 2020-08, § I (part), 8-4-20; Ord. No. 2021-07, § 1 (part), 4-6-2021; Ord. No. 2022-03, § 1 (part), 3-1-2022)

Sec. 16-18. Removal of obstructions and encroachments; notice; failure of owner to act; removal by town.



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(a) The notice of violation shall be sent to the property owner via first class mail. The property owner will have fifteen (15) days upon receipt of violation letter to comply. If the property owner fails to comply within the fifteen (15) day period, the town will proceed to remove the obstruction(s) at the property owner's expense. If said violation letter is returned, the town will proceed to remove the obstruction at the property owner's expense.

(b) Any appeal to this violation should be made within the fifteen (15) day compliance period to the Citation Appellate Committee.

(c) The requirements of this section and section 16-17 are intended to apply to any obstruction of any nature, kind and description upon any street, wharf or any other public place in the town.

(Code 1977, § 25-16; Ord. No. 2020-08, § 1 (part), 8-4-20; Ord. No. 2021-07, § 1 (part), 4-6-2021; Ord. No. 2022-03, § 1 (part), 3-1-2022)

State law reference— Obstructing highways and roads, G.S. 136-90, 136-91.

Right of Way Policy Statement

Using the preceding definitions and ordinances as guidance, this policy will assist in the gradual compliance of ordinances as written and amended. The policy emphasizes a phased approach to clearing the right of way of obstructions in an effort to ease the transition into compliance. This effort is being made to improve the accessibility of crowded roadways and right of ways for utility workers, first responders, pedestrians, and motorists. This will also put efforts towards helping alleviate drainage issues created by certain types of obstructions. Currently, there are hazards created by congestion that may be alleviated by a lack of roadside obstacles providing pedestrians an area to avoid opposing traffic or emergency vehicles passing on the street. This policy shall not in any way be construed to require the Town to observe the phased approach as it is necessary from time to time to utilize the right of way for public purpose. This policy in no way prevents utility workers from removing any and all obstructions including trees that would otherwise be protected by the coastal forest overlay district if necessary. In the event obstructions are cleared they will not and cannot be replaced in the Town's right of way.

Parameters: For all local streets 8' will be the requirement for removing obstructions during phase 1 and 2 while 10' will be the requirement for removing obstructions on collector streets. (Based on Town of Surf City 2021 Pavement Management Plan) In the event a sidewalk is present, 5' will be measured from the edge of the sidewalk nearest the property line, all obstructions within this 5' area as measured must be removed in phase 1 and phase 2. In the event the property line is reached before the above parameters are met then the property line will be the limit of the area cleared in all cases.

Designation of Streets: The collector streets for the purpose of this policy will be N. New River Drive, N. Topsail Drive, N. Shore Drive, Roland Ave, S. Topsail Drive and S. Shore Drive on the Island. Little Kinston Road, NC 50 and NC 210 are the collector streets on the mainland.

Exemptions:

Protected trees: All existing trees protected by the Coastal Forest Overlay District will be exempted from



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removal. This overlay district states that any tree (palms are not trees as defined by the NC Co-Operative Extension's list of salt tolerant plants) 3" or greater in diameter at 4' in height may not be removed. In the event the tree creates a utility or access conflict the tree will be pruned or removed. As per the CFOD dead and diseased trees may be removed. Additionally, all street trees required to be planted by zoning ordinance will be allowed if within the right of way.

Landscaping: At the edge of pavement the application of mulch and pine straw or planting of low growing grass will be permissible in the 8-10' clear zone. The area adjacent to the edge of pavement shall be graded in a manner that allows stormwater to drain away from the pavement. The height of this additional material/planting will not exceed the height of the edge of pavement. It will be the responsibility of the property owner to maintain this area if they choose to landscape within these parameters. In the event this landscaping is disturbed or damaged by necessity of the Town it will be replaced or repaired at the property owner's expense.

Driveways: All stone, concrete, and gravel located within the right of way is restricted to use in the 24' allowed driveway access through the right of way area which is edge of pavement to the property line. Please note driveways on the island must be of a pervious material.

Infrastructure: Infrastructure that is providing clear access to public assets I.E. (fire hydrants, crossovers etc.) will be exempted from removal.

Existing Beach crossovers and Engineered retaining walls: Existing beach crossovers and engineered retaining walls are exempt from this requirement. All new retaining walls and beach crossovers will require a permit from the Community Development Department. All new structures will be required to meet Town ordinances.

Town Operated Parking – Parking operated by the Town in accordance with Town ordinances will be allowed to remain in the Right of Way.

Town Resurfacing Project/ Town Operated Parking: Prior to any street resurfacing project or installation of Town Operated parking taking place on a Town Street, the Right of Way area shall be cleared by all adjacent property owners.

Any obstruction that remains after the compliance period has passed, is not an approved encroachment and results in a citation may be reviewed by an internal committee by request of the property owner. If the internal review committee does not allow the obstruction to remain as an encroachment, a final appeal can be made to the citation appellate committee. All approved encroachments will be documented by the Town.

The following plan will be executed in two (2) Phases and carried out over the next several years, depending on the time required to enforce the code and bring the various zones into compliance. The exception to this timeline is any street undergoing Town resurfacing projects or having additional Town operated parking added.

All approved encroachments will be documented by the Town. Any property owner that believes they have an acceptable encroachment may reach out to the Code Enforcement Officer to request an encroachment agreement.



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Phase1: Remove all non exempt obstruction(s) that have been placed or built within the distances that apply to your property. This phase will be initiated based on the zone map provided below. The Town will begin in zone 1 and finish in zone 13.

Phase2: Remove all remaining above street-grade obstructions, rock, landscaping (including berms), shrubs or other encroachments that have been placed or built within the right of way to the property line and have not received an encroachment agreement.

Public Notification : Utilize Town website and Facebook for Town-wide notice informing property owners of the adopted policy associated with bringing the Town's right of ways into compliance with Town ordinances. This policy allows for a ninety day (90) day period, to remove all non-exempt obstruction(s) that have been placed or built within the designated area of 8 or 10 feet from the edge of pavement or 5 feet behind sidewalk dependent upon the designation of the road as a local street or collector street. If the property line is reached prior to this distance, then the property line will be the limit of the area required to be cleared. This notification will also include information regarding phase 2 of the town policy to remove new/remaining obstructions placed in this area without notice and at property owner's expense in the interest of safety or utility conflicts. The schedule of each zone will be based on compliance and enforcement needed in the prior zone.

Individual Notification: At the beginning of each zone individual letters will be sent to the property owner of record in the Town's database. This letter will inform the property owner that the ninety day compliance period has begun for the current zone.

After (90) day period has elapsed, Code Enforcement will conduct inspections on a Zone by Zone basis. Notices will be issued for those out of compliance and if removal is required by the Town it will be carried out in compliance with the ordinance.

Right of Way Zone 1

Mail All property owners in Right of Way Zone 1 to have right of way cleared of all but exempted landscaping and protected trees by the predetermined date.

After the timeframe provided in the letter has passed, ride out the area located in Right of Way Zone 1 and begin issuing NOV's for properties in violation. All property owners will have fifteen (15) days to comply upon receipt of Notice. All ROW's that remain in violation after the fifteen (15) day period will be brought into compliance by the Town at the adjacent property owner's expense.

Completion of clearing of remaining non-compliant right of way areas will be based on the time required to complete this task. During the compliance period of this phase mailings for the next phase will begin.



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Right of Way Zone 2

Mail All property owners in Right of Way Zone 2 to have right of way cleared of all but exempted landscaping and protected trees by the predetermined date.

After the timeframe provided in the letter has passed, ride out the area located in Right of Way Zone 2 and begin issuing NOV's for properties in violation. All property owners will have fifteen (15) days to comply upon receipt of Notice. All ROW's that remain in violation after the fifteen (15) day period will be brought into compliance by the Town at the adjacent property owner's expense.

Completion of clearing of remaining non-compliant right of way areas will be based on the time required to complete this task. During the compliance period of this phase mailings for the next phase will begin.

Right of Way Zone 3

Mail All property owners in Right of Way Zone 3 to have right of way cleared of all but exempted landscaping and protected trees by the predetermined date.

After the timeframe provided in the letter has passed, ride out the area located in Right of Way Zone 3 and begin issuing NOV's for properties in violation. All property owners will have fifteen (15) days to comply upon receipt of Notice. All ROW's that remain in violation after the fifteen (15) day period will be brought into compliance by the Town at the adjacent property owner's expense.

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Right of Way Zone 4

Mail All property owners in Right of Way Zone 4 to have right of way cleared of all but exempted landscaping and protected trees by the predetermined date.

After the timeframe provided in the letter has passed, ride out the area located in Right of Way Zone 4 and



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Completion of clearing of remaining non-compliant right of way areas will be based on the time required to complete this task. During the compliance period of this phase mailings for the next phase will begin.

Right of Way Zone 5

Mail All property owners in Right of Way Zone 5 to have right of way cleared of all but exempted landscaping and protected trees by the predetermined date.

After the timeframe provided in the letter has passed, ride out the area located in Right of Way Zone 5 and begin issuing NOV's for properties in violation. All property owners will have fifteen (15) days to comply upon receipt of Notice. All ROW's that remain in violation after the fifteen (15) day period will be brought into compliance by the Town at the adjacent property owner's expense.

Completion of clearing of remaining non-compliant right of way areas will be based on the time required to complete this task. During the compliance period of this phase mailings for the next phase will begin.

Right of Way Zone 6

Mail All property owners in Right of Way Zone 6 to have right of way cleared of all but exempted landscaping and protected trees by the predetermined date.

After the timeframe provided in the letter has passed, ride out the area located in Right of Way Zone 6 and begin issuing NOV's for properties in violation. All property owners will have fifteen (15) days to comply upon receipt of Notice. All ROW's that remain in violation after the fifteen (15) day period will be brought into compliance by the Town at the adjacent property owner's expense.

Completion of clearing of remaining non-compliant right of way areas will be based on the time required to complete this task. During the compliance period of this phase mailings for the next phase will begin.

Right of Way Zone 7

Mail All property owners in Right of Way Zone 7 to have right of way cleared of all but exempted landscaping and protected trees by the predetermined date.

After the timeframe provided in the letter has passed, ride out the area located in Right of Way Zone 7 and begin issuing NOV's for properties in violation. All property owners will have fifteen (15) days to comply upon receipt of Notice. All ROW's that remain in violation after the fifteen (15) day period will be brought into compliance by the Town at the adjacent property owner's expense.

Completion of clearing of remaining non-compliant right of way areas will be based on the time required to



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complete this task. During the compliance period of this phase mailings for the next phase will begin.

Right of Way Zone 8

Mail All property owners in Right of Way Zone 8 to have right of way cleared of all but exempted landscaping and protected trees by the predetermined date.

After the timeframe provided in the letter has passed, ride out the area located in Right of Way Zone 8 and begin issuing NOV's for properties in violation. All property owners will have fifteen (15) days to comply upon receipt of Notice. All ROW's that remain in violation after the fifteen (15) day period will be brought into compliance by the Town at the adjacent property owner's expense.

Completion of clearing of remaining non-compliant right of way areas will be based on the time required to complete this task. During the compliance period of this phase mailings for the next phase will begin.

Right of Way Zone 9

Mail All property owners in Right of Way Zone 9 to have right of way cleared of all but exempted landscaping and protected trees by the predetermined date.

After the timeframe provided in the letter has passed, ride out the area located in Right of Way Zone 9 and begin issuing NOV's for properties in violation. All property owners will have fifteen (15) days to comply upon receipt of Notice. All ROW's that remain in violation after the fifteen (15) day period will be brought into compliance by the Town at the adjacent property owner's expense.

Completion of clearing of remaining non-compliant right of way areas will be based on the time required to complete this task. During the compliance period of this phase mailings for the next phase will begin.

Right of Way Zone 10

Mail All property owners in Right of Way Zone 10 to have right of way cleared of all but exempted landscaping and protected trees by the predetermined date.

After the timeframe provided in the letter has passed, ride out the area located in Right of Way Zone 10 and begin issuing NOV's for properties in violation. All property owners will have fifteen (15) days to comply upon receipt of Notice. All ROW's that remain in violation after the fifteen (15) day period will be brought into compliance by the Town at the adjacent property owner's expense.

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Right of Way Zone 11

Mail All property owners in Right of Way Zone 11 to have right of way cleared of all but exempted landscaping and protected trees by the predetermined date.



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After the timeframe provided in the letter has passed, ride out the area located in Right of Way Zone 11 and begin issuing NOV's for properties in violation. All property owners will have fifteen (15) days to comply upon receipt of Notice. All ROW's that remain in violation after the fifteen (15) day period will be brought into compliance by the Town at the adjacent property owner's expense.

Completion of clearing of remaining non-compliant right of way areas will be based on the time required to complete this task. During the compliance period of this phase mailings for the next phase will begin.

Right of Way Zone 12

Mail All property owners in Right of Way Zone 12 to have right of way cleared of all but exempted landscaping and protected trees by the predetermined date.

After the timeframe provided in the letter has passed, ride out the area located in Right of Way Zone 12 and begin issuing NOV's for properties in violation. All property owners will have fifteen (15) days to comply upon receipt of Notice. All ROW's that remain in violation after the fifteen (15) day period will be brought into compliance by the Town at the adjacent property owner's expense.

Completion of clearing of remaining non-compliant right of way areas will be based on the time required to complete this task. During the compliance period of this phase mailings for the next phase will begin.

Right of Way Zone 13

Mail All property owners in Right of Way Zone 13 to have right of way cleared of all but exempted landscaping and protected trees by the predetermined date.

After the timeframe provided in the letter has passed, ride out the area located in Right of Way Zone 13 and begin issuing NOV's for properties in violation. All property owners will have fifteen (15) days to comply upon receipt of Notice. All ROW's that remain in violation after the fifteen (15) day period will be brought into compliance by the Town at the adjacent property owner's expense.

Completion of clearing of remaining non-compliant right of way areas will be based on the time required to complete this task.