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## Sec. 26-1. Construction or other improvements within street rights-of-way.

- (a) No person or entity, other than the town, shall construct, install, maintain or erect any utility infrastructure, structure, pole, fence, on-street parking improvement, or other obstruction in any town street right-of-way without having first fully executed a right-of-way encroachment agreement with the town. The town manager or their designee may approve encroachment agreements ~~for the installation of public parking spaces~~. Any encroachment shall meet the requirements of NCDOT Roadway Design Manual or NACTO Urban Street Design Guide, as well as the NCDOT Construction Manual. The following exceptions to the foregoing shall not require an encroachment agreement:

(1) Items or improvements within 10 feet of the edge of paved travel lanes shall be limited to the following

- ~~(1)~~a. Mailboxes;
- ~~(2)~~b. Newspaper boxes; and
- ~~(3)~~c. Driveway connections, utility service laterals and stormwater cross drainage piping installed and/or constructed in accordance with town specification and the Unified Development Ordinance. Driveway construction shall require the issuance of a driveway permit from the Town of Oak Island.
- ~~(4)~~d. On-street parking spaces shall be permitted to be installed by the adjacent property owner only in the "Police Enforcement Zone," except for the right-of-way for West Oak Island Drive, described in section 28-42 of the Code of Ordinances and subject to the following standards:
  - ~~a.~~1. A right-of-way improvement permit from the development services department shall be required prior to installation.
  - ~~b.~~2. One ten-foot by 20-foot parallel parking space shall be permitted per residential lot. Such space shall be installed directly adjacent to the travel lane.
  - ~~c.~~3. The space will be constructed of permeable concrete, permeable pavers, permeable gravel, or other materials approved by the town and subject to the design requirements and approval of the town's stormwater administrator.
  - ~~d.~~4. A large canopy tree as listed in chapter 32 of the Code of Ordinances shall be planted on the lot in the front setback area, subject to approval of the town. In lieu of a new large canopy tree, the property owner shall receive appropriate credits for existing tree dbh (diameter at breast height) in the front setback area.
    - ~~1.~~(a) Should town improvement or utilities preclude planting of a large canopy tree, a fee-in-lieu of planting in the amount of \$250.00 shall be paid to the town. The proceeds from the fee-in-lieu shall be used only for the planting or maintenance of trees in public spaces in the town's jurisdiction.
  - ~~e.~~5. No other hardscape or improvement shall be permitted in conjunction with the on-street parking except for those specifically listed as exempt in this subsection.
  - ~~f.~~6. Such spaces are for public parking and are not to be restricted from public use.
  - ~~g.~~7. Such spaces and required plantings are to be installed so as not to interfere with the sight distance triangles required by the Unified Development Ordinance.
  - ~~h.~~8. The permittee shall be required to locate all underground utilities prior to installation. Any underground utilities damaged or otherwise disturbed shall be the responsibility of the permittee to repair.
  - ~~i.~~9. A five-foot separation between on-street parking spaces and driveways shall be maintained.

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- ~~j-10.~~ No additional piping shall be installed.
- ~~k-11.~~ Gravel parking areas in the right-of-way that were installed prior to July 18, 2025 shall be treated as legal non-conformities and are allowed to be maintained by the property owner subject to subsection 26-1(d).
- ~~(5)e.~~ Temporary sporting goods including, but not limited to, basketball goals, soccer nets, and other mobile sporting activities shall be permitted within the right-of-way provided they are designed to be moved and not permanently installed.
- ~~(6)f.~~ Any permanent or temporary items listed in this section are not the responsibility of the town and are subject to removal at any time by the town without notice.
- ~~(7)g.~~ The exceptions listed in this subsection shall not be installed or left in a manner that prevents public parking in the town right-of-way, where such parking is authorized.
- ~~(8)h.~~ The exceptions listed in this subsection shall not impact any ditches, swales, pipes, grate inlets or other BMPs without the authorization of the town's stormwater administrator.
- ~~(9)i.~~ The exceptions listed in this subsection shall not include regrading within the right-of-way and shall follow the existing contour of the shoulder.
- ~~(10)j.~~ Decorative gravel, mulch, and landscaping improvements at ground level in addition to driveway connections
- ~~a-1.~~ Such improvements shall be installed so as to be permeable for stormwater
- ~~b-2.~~ Such improvements shall be installed so as to be level with the preexisting grade and contours of the right-of-way and shoulder
- ~~c-3.~~ Such improvements shall be installed to NCDOT and/or town specifications for driveway or street construction
- ~~d-4.~~ A right-of-way improvement permit from the development services department shall be required prior to installation
- ~~e-5.~~ Decorative gravel, mulch, and vegetative landscaping improvements in the right-of-way that were installed prior to July 18, 2025 shall be treated as legal non-conformities and are allowed to be maintained by the property owner subject to subsection 26-1(d).
- ~~(11)k.~~ No fee shall be charged by the town during permitting for items ~~(1), (2), (4), (5), or (10) a., b, d, or i.~~
- (2) Items or improvements beyond 10 feet of the edge of paved travel lanes shall be limited to the following
- a. Any exemption listed in subsection (1).
- b. Vegetative landscaping no greater than three (3) feet in height
- c. Temporary decorative landscaping items no greater than three (3) feet in height. Such items must be able to be removed by hand without special tools or mechanical equipment. Items permanently affixed to the ground are prohibited.
- d. Any permanent or temporary items listed in this section are not the responsibility of the town and are subject to removal at any time by the town without notice.
- e. The exceptions listed in this subsection shall not be installed or left in a manner that prevents public parking in the town right-of-way, where such parking is authorized.
- f. The exceptions listed in this subsection shall not impact any ditches, swales, pipes, grate inlets or other BMPs without the authorization of the town's stormwater administrator.

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g. The exceptions listed in this subsection shall not include regrading within the right-of-way and shall follow the existing contour of the shoulder.

(3) Items or improvements permitted in unimproved Town right-of-way

- a. Driveway connections, utility service laterals and stormwater cross drainage piping installed and/or constructed in accordance with town specification and the Unified Development Ordinance. Driveway construction shall require the issuance of a driveway permit from the Town of Oak Island.
- b. Temporary sporting goods including, but not limited to, basketball goals, soccer nets, and other mobile sporting activities shall be permitted within the right-of-way provided they are designed to be moved and not permanently installed.
- c. Any permanent or temporary items listed in this section are not the responsibility of the town and are subject to removal at any time by the town without notice.
- d. The exceptions listed in this subsection shall not be installed or left in a manner that prevents public parking in the town right-of-way, where such parking is authorized.
- e. The exceptions listed in this subsection shall not impact any ditches, swales, pipes, grate inlets or other BMPs without the authorization of the town's stormwater administrator.
- f. The exceptions listed in this subsection shall not include regrading within the right-of-way and shall follow the existing contour of the shoulder.

(4) Items or improvements not permitted and not eligible for an encroachment agreement

- a. Permanent structures and fences. Retaining walls that are necessary for the structural integrity of the lot installed prior to the adoption of this ordinance may request an encroachment agreement.
  - b. Hardscape landscaping above ground level within 10 feet of the edge of pavement
- (b) Except as provided in (a)(1) through (3) above, no person or entity, other than the town or NCDOT, shall construct, maintain or erect any structure, pole, fence or other obstruction within any street right-of-way located, either now or in the future, within the corporate limits of Oak Island that is a part of the state roadway system without having first fully executed a right-of-way encroachment agreement with NCDOT.
  - (c) Within any municipal or state street right-of-way, the town, or its designee, shall be responsible for repairing or replacing, to equal or better condition, any driveway, stormwater cross drainage piping or walkway within the street right-of-way that is damaged or destroyed by any project, improvements or repair work undertaken or contracted by the town within such rights-of-way. The town shall not be responsible for repairing or replacing any legal nonconformity or right-of-way improvement that does not conform to the standards of this subsection or the Unified Development Ordinance.
  - (d) Property owners shall be permitted to undertake seeding of lawn and/or other nonstructural improvements as exempted in subsection (a) and shall be obligated to properly maintain same in the area between the street pavement edge or edge of the traveled way and the property line/right-of-way line, provided such work does not prevent or hinder the allowance of on street parking where such parking is not otherwise prohibited by this Code. Property owners undertaking such improvements or any other improvement authorized by this section shall be responsible for any damage to such improvements that might occur during the course of infrastructure improvements occurring within street rights-of-way by or on behalf of the town or NCDOT.
  - (e) The provisions of this article shall be subject to enforcement through initiation by the town of criminal or civil proceedings or any other remedy available as provided for under G.S. 160A-175.
  - (f) Improvements authorized by this section shall not impact any ditches, swales, pipes, grate inlets or other BMPs without the authorization of the town's stormwater administrator.

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(g) Upon adoption of this ordinance (July 18, 2025), obstructions or other right-of-way violations not exempted by section 26-1(a) shall have a six-month abatement period.

(Ord. of 4-10-2001(2), § 1; Ord. of 2-10-2004; Amend. of 9-19-2017; Amend. of 1-10-2023(1); Amend. of 6-10-2025; Amend. of 7-18-2025)