
Amended by Council action Jan 10, 2023

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 or other obstruction in any town street right-of-way without having first fully executed a right-of-way encroachment agreement with the town. 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 apply:
- (1) Mailboxes;
 - (2) Newspaper boxes; and
 - (3) Driveway connections, utility service laterals and stormwater cross drainage piping installed and/or constructed in accordance with town specification.
- (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.
- (d) Property owners shall be permitted to undertake seeding of lawn or other nonstructural improvements 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 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.

PART II - CODE OF ORDINANCES

Chapter 28 - TRAFFIC

ARTICLE I. IN GENERAL

ARTICLE I. IN GENERAL¹

Sec. 28-9. ~~Parking on or o~~Obstructing sidewalks and public right-of-way.

- (a) ~~It shall be unlawful to park any motor vehicle on a sidewalk, bikeway, driveway, emergency vehicle access or where official signs prohibit, or otherwise obstruct the use of same by the public within the town.~~
- (b)a It shall be unlawful for any person to place limbs, brush, etc. on any public parking area or town right-of-way that impedes vision or exceeds 42 inches in height.
- (c) It shall be unlawful to put debris on any other property or right-of-way other than from where the debris was originated, subject to the following exceptions:
- (1) *Flag lots:* Debris for collection by the town shall be placed in the right-of-way abutting the adjacent lot with the longest street frontage.
 - (2) *Lots accessible by alley:* Debris for collection by the town shall be place in the nearest street right-of-way abutting the alley or lot.
- (d) It shall be unlawful for any person to erect any pole, standard or tower, or make or dig any hole or make any excavations or dig into any street, sidewalk, alley, or any thoroughfare dedicated to public use or install any item over or under public right-of-way without first requesting and obtaining from the town public works directors permission to perform such work. It shall be unlawful for anyone to install or erect any apparatus or structure not limited to skateboard ramps or basketball goals, either permanent or portable, adjacent to or on street right-of-way.
- (e) *Right-of-way limitation.* See section 26-1.
- (f) *No responsibility if removed.* In the event of the town or utility companies need to make use of the street right-of-way, the town and/or utility companies shall be permitted to remove the structure and/or landscaping that exist within the street right-of-way and neither the town, utility company, or approved contractor shall be responsible for the repair or replacement of such landscaping, materials, or structures.
- (g) *Costs for removal.* Non-approved landscaping, materials, or structures in the street right-of-way that are deemed to be a public safety hazard, impede traffic and hinder the use or maintenance of public utilities shall be removed at the homeowner's cost.

(Ord. of 10-10-2000(3), § 1(h); Amend. of 1-12-2005; Amend. of 7-12-2005; Amend. of 12-13-2005(3); Amend. of 9-19-2017)

Cross reference(s)—Streets, sidewalks and other public places, ch. 26.

Sec. 28-10. ~~Parking prohibitions.~~

- (a) ~~Parking on public owned property. Vehicular parking; motor vehicles, which are self-propelled and designed to run upon the highways, shall be permitted to park on public rights-of-way and shall remain no longer than 72 hours (without prior approval from the town manager or his designee), so as not to impede any but not limited to the following town functions: right-of-way maintenance, grass cutting, meter reading. Excluding permitted parking for emergency and police vehicles.~~

1—28-12, heretofore comprising the entirety of ch. 28, have been redesignated art. I for purposes of maintaining Code format.

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- (b) ~~Parking prohibited at all times in designated places.~~ When signs are placed, erected or installed giving notice of a "no parking zone," no person shall park a vehicle at any time upon any of the areas or streets described in a schedule established and amended by the town council or town manager from time to time, and on file in the office of the town clerk.
 - (c) ~~Towing of illegally parked vehicles.~~ Any illegally parked vehicle may be towed. Any vehicle that has been towed for a parking violation is to be held until the towing fee and penalties related to all outstanding parking tickets and penalties owed to the city are paid in full or a bond is posted in the amount of the towing fee and all outstanding parking tickets and penalties. Payment of the towing fee and all outstanding parking tickets and penalties shall not constitute a waiver of a person's rights to contest the towing or the outstanding parking tickets and penalties.
 - (d) ~~Obstructing fire hydrant.~~ It shall be unlawful for any automobile, truck or vehicle of any kind to be parked within 15 feet of any fire hydrant.
 - (e) ~~Handicapped parking.~~ When signs are placed, erected or installed giving notice thereof, parking is prohibited at all times by all vehicles other than those designated as the vehicles of handicapped persons in areas properly designated as parking spaces for the handicapped. (Note: All required handicap signs and locations shall become compliance within six months from the date of this amended section.)
 - (f) No person shall obstruct an area within 15 feet of marked and designated emergency beach access points on the seaward side of the access. The schedule of emergency beach access points may be amended by the town council from time to time, and shall be on file in the office of the town clerk.

(Ord. of 10-10-2000(3), § 1(i); Amend. of 6-10-2003; Amend. of 1-12-2005; Amend. of 7-12-2011; Amend. of 7-24-2014; Amend. of 11-16-2018)

Sec. 28-10.1. Public parking on town right-of-way.

- (a) ~~Delivery trucks.~~ In all residential zones, delivery trucks shall be required to make all efforts to avoid the impediment of traffic flow. Deliveries shall be limited to two hours. The time limit may be extended upon request and approval of the chief of police or his designee. When delivery trucks are required to stop on paved portion of the road, in order to meet delivery requirements, all safety precautions and devices to alert traffic shall be in place.
- (b) ~~Public parking on town right-of-way.~~ Parking in designated areas such as but not limited to recreational locations, town facilities, and town maintenance parking areas shall be strictly enforced by time limits on signs, unless otherwise approved by the town manager, chief of police or his designee.
- (c) ~~Construction site parking.~~ Construction vehicles shall be restricted to onsite or right-of-way abutting property and any overflow parking shall be restricted to the right-of-way for less than 72 hours. At no point shall construction vehicles park on the pavement of the road or obstruct the road. Construction vehicles may not park on private property next to a job site without owner permission.
- (d) All damage to right-of-way shall be the sole responsibility of the general contractor to correct before a certificate of occupancy shall be issued. No port-a-john, or required debris containers shall be allowed in the right-of-way. Construction vehicles shall not be permitted to park in part or in whole on pavement.
- (e) ~~Overnight parking.~~ Overnight parking on town right-of-way is prohibited in the following locations:
 - (1) —57th Place West.
 - (2) —The 5700 block of West Dolphin Drive.
 - (3) —The 5400 block of West Dolphin Drive.

~~(f) Parking in the public boat ramp parking lot located at Yacht Drive and 55th Street NE shall be limited to properly licensed vehicles with properly licensed and attached empty boat trailers not to exceed a period of 24 hours.~~

~~(g) Violation of the provisions of this section shall be punishable with a civil penalty in an amount set out in the fee schedule and maintained at town hall.~~

~~(Amend. of 1-12-2005; Amend. of 7-12-2005; Amend. of 8-9-2005(2); Ord. of 8-8-2006; Amend. of 10-12-2010; Amend. of 7-13-2017; Amend. of 7-10-2018; Amend. of 11-16-2018)~~

Sec. 28-10.2. Designated restricted parking areas.

- (a) When signs are placed, erected or installed giving notice thereof, parking in designated spaces shall be restricted to Oak Island residents and property owners by display of a valid Oak Island resident or property owner parking decal issued by the Town.
- (b) A schedule of locations for subsection (a) above as established, amended and deemed appropriate by the town council from time to time will be maintained and available for inspection at the police department and on file in the office of the town clerk.
- (c) It shall constitute a violation of this chapter for any person to falsely represent himself as eligible for or to furnish any false information in an application to the Town in order to obtain an Oak Island resident or property owner parking decal.
- (d) Oak Island resident or property owner parking decals may be obtained at the Oak Island Town Hall upon completion of an application and furnishing of proof of residency and property ownership.
- (e) Enforcement shall be the duty of the police department. The purpose of this section is to:
 - (1) Reduce hazardous traffic conditions resulting from the use of streets within areas that have historically experienced high volume vehicular traffic with a shortage of parking spaces;
 - (2) Protect the subject areas from polluted air, excessive noise and trash and refuse caused by the entry of such vehicles;
 - (3) Protect the residents of those areas from unreasonable burdens in gaining access to their residences;
 - (4) Promote efficiency in the maintenance of those streets in a clean and safe condition;
 - (5) Preserve the value of the property in the subject areas; and
 - (6) Preserve the safety of children and other pedestrians and traffic safety, and the peace, good order, comfort, convenience and welfare of the inhabitants of the town.
- (f) Violation of the provisions of this section shall be punishable with a civil penalty in an amount set out in the fee schedule and maintained at town hall.

(Ord. of 5-13-2008; Amend. of 7-10-2018)

Sec. 28-10.5. ~~Illegal parking.~~

- ~~(a) It shall be unlawful to stop, stand, or park a vehicle:
 - ~~(1) Whether attended or unattended upon any portion of the roadway so as to obstruct vehicle, pedestrian and/or bicycle traffic.~~
 - ~~(2) So as to obstruct a curb ramp or curb cut for handicapped persons.~~~~

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- ~~(3) In an area marked as a fire lane.~~
 - ~~(4) On a street in front of a public or private driveway.~~
 - ~~(5) Within an intersection.~~
 - ~~(6) Upon any bridge.~~
 - ~~(7) On a street median, unless the vehicle is disabled, and then only temporarily for a period not to exceed 24 hours.~~
 - ~~(8) Within a public alley in such a manner that free movement of traffic is obstructed.~~
 - ~~(9) In a marked parking space in a manner that its overall dimensions are not entirely within the parking space as marked.~~
 - (b) The prohibitions in this section shall not apply to emergency and public service vehicles whose operators are performing services for which they are responsible, nor do these prohibitions apply to vehicles belonging to persons under contract with the town to perform a public service.
- (Amend. of 9-10-2013)

Sec. 28-13. Penalty for violation of chapter.

- (a) Except as may be otherwise provided for by state law or this chapter, any person who violates any provision of this chapter shall be punished by proceedings as provided for in section 1-7.
- (b) (1) *Notice to owner of 72 hour violation.* If the chief of police or his designee determines that a vehicle is in violation of this chapter, then he or she shall give written notice of the violation found to the owner of the vehicle. Such notice shall direct the owner of the vehicle to remove the offending vehicle or otherwise rectify the violation within 14 days from the receipt of the notice by hand delivery or following receipt of the notice by registered mail.
- ~~(2) Notice of right to hearing.~~ If the vehicle is towed at the request of the town chief of police or his designee, notice shall be given to the owner of the vehicle as set forth in N.C.G.S. 20-219.11 as the same may be amended from time to time. A copy of N.C.G.S. 20-219.11 is attached hereto and incorporated herein by reference.
- ~~(3) If the person served contends that such a vehicle is not in violation of the parking ordinance, abandoned or junk vehicles, he shall so notify the chief of police or his designee, in writing, of such contention within the 14 day notice period referred to in subsection (a) above. The failure of the person served to so notify the town shall be an admission that the vehicle is in violation of the parking ordinance, and abandoned or junk vehicle, and open storage of said vehicle shall be terminated in accordance with notice to the person served. However, notification to the town of such contention shall permit a representative of the town, if the latter so desires, to further inspect such vehicle within ten days of the town's receipt of such notification of contention.~~
- ~~(4) Whenever a police officer or authorized city employee or agent finds a motor vehicle that has been wrecked or disabled upon the public streets or ways of the town; or upon public property, or that may have been parked in violation of a town ordinance or state law, such individual may have the vehicle towed from the area.~~
- ~~(5) A police officer, in addition to this chapter, shall have a vehicle removed to a secure storage area during the enforcement of his duties.~~

~~(6) —Towing of illegally parked vehicles. Any parked vehicle may be towed. Any vehicle that has been towed for parking violation is to be held until the towing fee and penalties related to all outstanding parking tickets and penalties owed to the city are paid in full or a bond is posted in the amount of the towing fee and all outstanding parking tickets and penalties. {Payment} shall not constitute a waiver of a person's rights to contest the towing or the outstanding parking tickets and penalties. (See subsection 28-3(c)).~~

~~(7) —Except as may be otherwise provided for by state law, violation of this chapter as it pertains to operation or parking of vehicles, will be prosecuted and will be punished as provided in NCGS 14-4 as the same may be amended from time to time.~~

~~(c) —Option: The town may address any parking violation as a public nuisance and apply the fines and penalties as set forth in chapter 14, division II of this Code.~~

~~(Ord. of 10-10-2000(3), § 1(j); Amend. of 6-10-2003; Amend. of 1-12-2005; Amend. of 2-8-2005; Amend. of 1-11-2021(2))~~

~~Note(s) —Formerly § 28-12~~

ARTICLE III. PARKING

Sec. 28-41 Definitions

For the purpose of this chapter, the following definitions shall apply:

CONSTRUCTION OR SERVICE VEHICLE. Any vehicle, as defined herein, that is being used for any legitimate service to a private or public facility or residence. Private contractors' vehicles, delivery vehicles, animal assistance organization vehicles (excluding spectators) and any other vehicle with pre-authorization from the town or police, on a case-by-case basis, shall be considered construction or maintenance vehicles.

DAWN. A time one-half hour before sunrise.

DRIVEWAY. An area of the public right-of-way intended for ingress and egress to private residences and the parking thereof, or an area of the public right-of-way allowing ingress and egress to businesses and commercial properties open to public vehicular traffic.

DUSK. A time one-half hour after sunset.

FIRE LANE and/or EMERGENCY VEHICLE ACCESS. Any area marked with signage and/or other markings indicating the area is restricted to emergency vehicle parking and/or access only.

FULL-SIZE VEHICLE. Any registered vehicle as defined in this Chapter excluding those vehicles defined as low-speed vehicles herein.

HANDICAPPED AND/OR DISABLED VETERAN. Individuals with disabilities as determined by a medical practitioner in accordance with the Americans with Disability Act and all current federal guidelines and State laws.

HANDICAPPED PARKING SPACE. A parking space designated by signage for the exclusive use of individuals with disabilities as defined above. N.C.G.S. 20-36(e)(1) authorizes vehicles displaying disabled veteran registration plates to utilize these spaces without a handicap placard.

LOADING ZONE. A specific area designated by signage for temporary parking to load or unload passengers, equipment, and/or goods.

LOW SPEED VEHICLE. A registered motor conveyance as defined in G.S. § 20- 4.01(27)(g), a four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but less than 25 miles per hour.

PARK or PARKING. The act of leaving any vehicle standing, whether attended or unattended, in a stationary position for any amount of time, except when in obedience to traffic control devices when in the normal flow of vehicular traffic.

PEDESTRIAN CROSSWALK. Any area marked with signage and/or other markings designed to safely allow pedestrian foot traffic to cross the roadway.

PARKING MAP. The map of parking zones of the Town as designated and approved by Town Council.

PARKING PERMIT. An instrument, either physical or digital, authorizing the holder to park and/or occupy a designated parking area.

PUBLIC RIGHT-OF-WAY. A strip of land acquired for or dedicated to public transportation purposes over which is constructed a street or highway, and which includes areas adjacent thereto which may be used for, without limitations, sidewalks, planting strips, traffic circles, utilities, and/or medians.

STREET or HIGHWAY. G.S. § 20-4.01(13) and (46) define a street and/or highway as the entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic. The terms highway and street, and their cognates, are synonymous.

STREET INTERSECTION. The physical location in which two streets connect. A measurement from this location shall be from the right-of-way connection point of the streets closet to the adjacent private property line.

TRAILER. Any trailer required to be registered in accordance with North Carolina General Statutes shall be consider a vehicle as defined herein. Whether attached or not to a towing vehicle, for the purposes of parking, trailers shall be considered a separate vehicle.

VEHICLE. Any registered motor conveyance as defined in G.S. § 20-4.01, including but not limited to: passenger motor vehicles, commercial motor vehicles, recreational vehicles, electric vehicles, low-speed vehicles, motorcycles, utility vehicles and mopeds.

28-42 PARKING PROHIBITED ON PUBLIC STREETS AND RIGHTS-OF-WAY

(A) Parking shall be regulated based on the parking zones identified on the official Parking Map approved by Town Council within the corporate limits of the Town on all public streets, rights-of-way, and on Town-owned property unless specifically authorized in this Chapter. The Official Parking Map shall be maintained in Town Hall. Within the corporate limits of the Town, parking on all public streets, rights-of-way and on Town-owned property shall be regulated based on the parking zones on the official Parking Map approved by Town Council, unless otherwise specifically authorized in this Chapter.

(1) Police Enforcement Zone

(a) Enforcement of parking ordinances in this zone is the responsibility of the Town of Oak Island Police Department.

(b) Unless otherwise specifically authorized by this Chapter, parking in the Right-of-Way is prohibited from 9:00 AM to 5:00 PM from April 1st to September 30th.

(2) Commercial Zone

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- (a) Unless otherwise specifically authorized by this Chapter, parking in structured spaces within the Right-of-Way is permitted. Spaces must have existed at the time of adoption of this Article.
 - (3) Vendor Enforcement Zone
 - (a) Enforcement of the parking ordinances in this zone is the responsibility of the parking vendor selected by the Town Council of the Town of Oak Island.
 - (b) Unless otherwise specifically authorized by this Chapter, parking in the Right-of-Way is prohibited from 9:00 AM to 5:00 PM from April 1st to September 30th.
 - (c) Parking subject to Section 28-43 within this zone must be within identified Paid Parking zones at spaces identified by a parking bumper.
 - (d) The Town Manager may, at his discretion, increase or decrease the number of spaces within the Paid Parking zones in consultation with the parking vendor.
 - (e) The Town Manager may, at his discretion, waive paid parking between SE 40th Street and SE 49th Street for Town Events in consultation with the parking vendor.
 - (B) Parking shall not be authorized in any of the following locations:
 - (1) Street intersections or adjacent right-of-way, within 40 feet.
 - (2) Any portion of the roadway, pavement, or travel lane.
 - (3) Pedestrian crosswalks, sidewalks, or pedestrian access ways.
 - (4) Blocking access to driveways or mailboxes.
 - (5) Facing opposing traffic.
 - (6) Blocking or adjacent to fire hydrants and emergency beach accessways, within 15 feet, and blocking or within fire lanes.
 - (7) Designated handicapped or disabled veteran space without placard or registration plate.
 - (C) When an authorized or permitted parking area's access is conspicuously and obviously restricted or blocked by signs, barricades, barrier tape or any other traffic control device(s), parking shall be prohibited for the duration of the time that area remains blocked.
 - (D) Exceptions.
 - (1) The prohibitions in subsection 28-42(A) (B) or (C) shall not apply to the temporary parking of any of the following:
 - (a) Emergency or government vehicles.
 - (b) Public and private utility vehicles.
 - (c) Private vehicles, when being used during the response to an emergency.
 - (d) Private vehicles, when being used for any other bona fide governmental purpose.
 - (2) The prohibitions in subsection 28-42(A) shall not apply to the temporary parking of any of the following:

- (a) Private contractor or service vehicles while performing legitimate services at a specific location receiving services, except:
 - (i) No vehicle may be left parked overnight (from dusk to dawn); and
 - (ii) No vehicle may be left parked on any portion of any roadway; and
 - (iii) No vehicle may be parked on any portion of the sidewalk; and
 - (iv) All damage to right-of-way shall be the sole responsibility of the general contractor to correct before a certificate of occupancy shall be issued.

28-43 PARKING AUTHORIZED BY PERMIT ONLY

- (A) No person shall park a vehicle in any designated parking area or location without first obtaining a valid parking permit in accordance with the following, unless a specific exemption exists in 28-41:
 - (1) Parking permits will be required from April 1st through September 30th between the hours of 9 a.m. and 5 p.m. each day.
 - (2) Separate rates may be available for the following permits.
 - (a) Hourly Permits. Per hour rate, up to four (4) hours.
 - (b) Daily Permits. Per day rate, valid for the date of purchase only.
 - (c) Weekly Permits. Per week rate, valid for seven consecutive days including the date of purchase.
 - (d) Annual Permits. Annual rate covers one or two vehicles. Valid for the calendar year of purchase only
 - (e) Resident Permits. Annual rate covers one or two vehicles. Valid for the calendar year of purchase only
 - (f) Non-resident Property Owner Permits. Annual rate covers one or two vehicles. Valid for the calendar year of purchase only
 - (3) All rates associated with parking permits are listed in the Fee Schedule adopted by the Town Council, which shall be available at the office of the Town Clerk.
 - (4) Permits are valid only for the specific vehicle assigned during initial purchase and are non-refundable.
 - (5) Hourly, Daily and Weekly permits are non-transferable.
 - (6) Transferring of an annual permit is authorized only under the following circumstances:
 - (a) When the assigned vehicle is sold; and
 - (b) Only once per calendar year; and
 - (c) Only to the original purchaser; and
 - (d) Proof of sale documentation shall be required.

(B) Signage.

(1) Proper signage may be installed and maintained by the Town or its authorized agent to:

- a. Designate authorized parking areas in accordance with the parking map.
- b. Designate parking for low-speed vehicles in accordance with the parking map.
- c. Designate loading/unloading zones and stop locations for mass transit vehicles.
- d. Designate handicap parking spaces.
- e. Indicate no parking areas.
- f. Provide the manner of obtaining a Parking Permit:
 - i. at each designated parking area; and
 - ii. Including the required hours.

(2) Signage will only be placed in accordance with the provisions of this Chapter.

(C) No person may park or cause to be parked, any full-size vehicle in any space designated for low-speed vehicle parking.

(D) Parking is authorized without a Permit outside the specified hours in 28-43(A)(1), but only in designated authorized parking areas pursuant to this Chapter unless otherwise exempted in 28-42(D).

(E) The parking map includes the specific locations in which parking is authorized. Parking in these areas shall be in accordance with all the provisions of this Chapter.

28-44 PENALTY

(A) Criminal. In accordance with NCGS 14-4(b), SL 2021-138 (effective December 1, 2021), violation of a parking ordinance is an infraction and may carry a maximum fine of fifty (\$50.00) dollars.

(B) Civil. In accordance with § 10.99(B), Any person who violates any provision of this traffic code shall be subject to a civil fine of \$50 per offense, unless a different amount is specifically stated herein.

(C) When a civil fine is assessed in accordance with 28-44(B) above, and the violation is for parking in a lawful parking area, and the fine is paid by midnight of the same date it was assessed, it shall be \$25 per offense, for the first 3 offenses per vehicle, per calendar year. All subsequent violations shall be \$50 per offense unless a higher amount is required in this Chapter. This subsection, 28-44(C), shall not apply to violations of 28-42(B)(6) or (7).

(D) Civil. In accordance with § 10.99(B), Any person who violates § 28-42(B)(6) or (7) of this traffic code shall be subject to a civil fine of \$250 per offense.

(E) A late fee in the amount of \$25 shall be assessed when all fines levied by 28-44(B) or (C) of this section are not paid in full within 30 days of the issuance of a citation for a violation.

