Chapter 13 - STREETS AND SIDEWALKS

**State Law reference—** Streets and sidewalks in cities and towns, G.S. § 160A-296 et seq.

ARTICLE I. - IN GENERAL

Sec. 13-1. - Obstructions generally.

It shall be unlawful for any person to build, erect, construct or place a porch, steps, fence, wall, or other obstruction whatsoever in or over any of the streets or sidewalks of the Town, to repair or improve any porch, steps, fence, or other obstruction whatsoever now in or over any of the streets or sidewalks. It shall likewise be unlawful for any person to obstruct any street or sidewalk with any other article unless approved by the Town; provided however, that merchants may use the sidewalk for unpacking or opening merchandise, but must immediately remove such packing and merchandise therefrom; and provided further, that merchants may not use the sidewalks or any part thereof for display of merchandise, but this shall not restrict or prohibit the use of any areas which may exist between the back of the sidewalk and the face of any store building. Benches and seating will be allowed on the sidewalks in the Central Business District. This section does not apply to the following:

1. Obstructions authorized by a permit issued under section 4-24;
2. Merchants use of receptacles for purposes of beautification containing shrubs and other ornamental plants, provided the receptacles and their locations are approved by the Town; and
3. Special Events. Notwithstanding the foregoing provisions of this section, the Town Administrator or Chief of Police may authorize within the area designated as the Central Business District the temporary obstruction of streets or sidewalks, or the use of other public property, in conjunction with unique events. Provided, however, the special event sponsor shall ensure that there is a continuous five-foot width of unobstructed sidewalk. Anyone desiring a special event permit shall make application to the Town Administrator detailing the nature and duration of the event and demonstrating how the event will promote a public benefit and the general welfare of the Town. In deciding whether to issue a special event permit, the Town Administrator or Chief of Police shall balance the stated civic purpose of the event against the inconvenience to the public of temporarily closing or obstructing streets and sidewalks and against the cost to the Town of ensuring the reasonable protection of the public health, safety and welfare which is attendant to the special event. The issuer of the permit shall be guided by the following considerations:
4. a. The time, place, and location of the event;
	1. The nature and purpose of the event;
	2. The activities that will be included;
	3. The number of permits previously issued and the area(s) for which such permits were issued;
	4. Anticipated crowd density, time and duration of the event, traffic control, public safety, and the cost to the Town;
	5. Whether the sponsor should be required to provide appropriate liability insurance; and
	6. Consistency with all other applicable laws and ordinances.
5. *Outdoor dining areas.* The Town may authorize within the area designated as the Central Business District or Highway Business District any group of tables, chairs, barriers, and other associated furnishings situated and maintained upon the sidewalk or public alley for use in connection with the consumption of food and beverages sold to the public from or in an adjoining restaurant.

**State Law reference—** Authority to prevent and remove street and sidewalk obstructions and encroachments, G.S. § 160A-296(a)(2).

Sec. 13-2. – Restricted use of Bicycles, E-scooters, Roller Skates, Skateboards, and other devices on certain streets and sidewalks.

* 1. Except for streets set aside or designated as play streets as hereafter set forth, it shall be unlawful for any person to skate, roller skate, roller blade, operate an e-scooter or to ride or propel any kind of coaster or skateboard or similar device on any public street or roadway, except for the purpose of crossing the street or roadway at a crosswalk and when so crossing that person shall be granted all of the rights and shall be subject to all of the duties applicable to a pedestrian. This subsection shall not apply to bicycles.
	2. Further, it shall be unlawful for any person to roller skate, roller blade or ride a bicycle, operate an e-scooter or ride, or propel any kind of coaster or skateboard or other similar device on any sidewalk in that area of the Town designated as the Central Business District as hereafter defined. The Central Business District shall consist of both sides of Linville Street from Catawba Street west to Bridge Street; both sides of Pitts Street from Catawba

Street east to the easternmost boundary of Town Hall property; and both sides of Catawba Street from the railroad tract north to Davis Street including the public parking lots, parks and recreation property located therein, unless such area is designated as a skating area by the Chief of Police.

* 1. Under the supervision of the Chief of Police, signs may be erected designated certain streets as play streets or designating certain parking lots or recreation areas within the Town where skating or similar activities are permitted. Within the Central Business District as defined above, skating in any area not specifically designated as a skating area is prohibited, whether signs are erected.
	2. In all areas of the Town where permitted, any person who is using or riding roller skates, roller blades, coaster, skateboards, and e-scooter or similar devices upon a sidewalk shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking or passing any pedestrian on such sidewalk, and such pedestrian shall at all times have the right-of-way.
	3. This Ordinance may be enforced in the following manners and methods:
		1. Any violation of this Ordinance shall be a general misdemeanor and shall be punishable as for a violation of any other Ordinance of the Town of Glen Alpine for which no more specific punishment is provided.
		2. In addition to the criminal enforcement of this Ordinance as described above, any law enforcement officer citing any person for violation of this Ordinance is hereby authorized to impound the roller skates, roller blades, coaster, skateboards,
		3. e-scooter, bicycle, or other device upon or with which the person was committing the violation, and to hold such device as potential evidence in legal proceedings against the person so charged. Such impounded device shall only be returned to its owner upon the posting of a reasonable bond in an amount not less than $50.00 and not to exceed $200.00 with the Town Administrator, pending resolution of the legal proceeding against the person so charged.

Sec. 13-3. - Excavations—Permit required; restoration of surface.

No person shall cut or dig any trench, hole or other opening in any street, alley, or sidewalk without first obtaining a permit so to do from the Public Services Department. When work under such a permit is completed, the permit holder shall restore the street, alley, or sidewalk in as good condition as it was before such opening. Every day's neglect to perform such duty, after having received notice so to do from the Public Services Department shall constitute a separate offense. All such work shall be done under the direction and by consent of the Public Services Department.

**State Law reference—** Authority of Town to regulate digging in streets and sidewalks, G.S. § 160A-296(a)(6).

Sec. 13-4. - Same—Enclosure.

All excavations in or near any street or sidewalk shall be securely enclosed at all times when persons are not at work therein. Each day such excavation remains unenclosed shall constitute a distinct and separate violation of this section.

**State Law reference—** Removal of enclosures, G.S. § 136-26. Sec. 13-5. - Sidewalk construction generally

No person shall construct any sidewalk within the public right-of-way without first obtaining a permit to do so from the Town Administrator. All sidewalks shall be constructed according to specifications on file in the office of the Town Administrator.

Sec. 13-5. - Construction assessments generally.

It shall be the policy of the Board of Aldermen to charge, as a part of street construction assessments and sidewalk construction assessments, the cost of grading, sub grading, street drainage, clearing, etc., and such costs shall be added to the cost of concrete or other construction methods used in the streets and sidewalks and shall be considered as the basis for making the assessment roll on each street and sidewalk.

**State Law reference—** Assessments for street and sidewalk construction, G.S. § 160A-216.

Streetlights shall be installed along all Town streets according to Town standards and along State maintained streets according to NCDOT Standards.

1. Lights shall be located within public street rights-of-way.
2. Lights shall be located along "named" driveways (with no right-of-way) serving multiple parcels and at least two structures/residences.
3. Lights shall be located at all streets (not driveway) intersections and at dead-ends. Blocks longer than 400 feet shall be divided as evenly as possible.
4. Requests for lights due to safety concerns or outside of this policy shall be made to the Town Administrator.
5. Decorative street lighting requests shall be subject to approval by the Town of Glen Alpine.

Sec. 13-6. - Sidewalk sales.

A permit must be obtained from the Chief of Police to conduct a sidewalk sale. Sidewalk sales shall be limited to four per year. Except for an official sidewalk sale, merchants are prohibited from placing merchandise on the sidewalk.

Additional requirements regarding sidewalk sales:

1. Fixtures, devices, and merchandise shall only be in the area designated by the Town, specifically excluding roadways and shall not be located as to impede, endanger, or interfere with pedestrian or vehicular traffic;
2. Merchandise areas will be permitted only adjacent to the building in which the retail business is located. Merchandise shall not be permitted next to the curb of the street or in the middle of the sidewalk;
3. All merchandise shall be placed on fixtures or devices which are stable and not easily tipped and do not include sharp edges, protrusions, or other features which may be hazardous to the public;
4. All merchandise and the fixtures, or devices on which the merchandise is displayed must be secured so that it may not be dislodged during windy or stormy weather;
5. In the event of a declared emergency or in a situation where exigent circumstances arise, a permit holder shall remove all articles from the sidewalk when directed to do so by any law enforcement officer, fire official, or emergency medical personnel;
6. The merchant or authorized representative shall be responsible for keeping the sidewalk area clean of garbage, trash, or other litter associated with the sale of merchandise;
7. The merchant or authorized representative shall not have or use any bell, siren, horn, loudspeaker, or any similar device to attract attention of potential customers.

Sec. 13-7. - Outdoor dining areas.

(a) *Permit issued by the Town Administrator or his/her designee*. The Town Administrator or his/her designee may issue permits for outdoor dining areas pursuant to this section on sidewalks and public alleys in the Central Business District or Highway Business District.

(2) *Application*. Any restaurant desiring to operate an outdoor dining area shall, before the issuance of a permit, prepare and file an application with the planning director or his/her designee who shall contain the following information:

1. The name, address, and telephone number of the restaurant desiring to operate an outdoor dining area;
2. The name, address, and telephone number of each of the restaurant's operators;
3. The type of food, beverage, and other products to be sold and served at the outdoor dining area;
4. The hours of operation of the restaurant and the proposed hours of operation of the outdoor dining area;
5. A scaled drawing or site plan illustrating the proposed outdoor dining area boundary and surrounding streetscape details covering six feet on either side of the frontage of the associated restaurant, including but not limited to property lines, sidewalks, curb lines, lighting, trees, tree size, tree grates, planters, street signs, bicycle parking, benches, and fire hydrants. The drawing shall illustrate the section of sidewalk or public alley to be used for the outdoor dining area and the section to be kept clear for pedestrian use, and depict the proposed materials and placement of tables, chairs, and barriers on the sidewalk or public alley;
6. Evidence of a valid insurance policy that will indemnify the Town for any damage to the sidewalk or public alley, and for any damages for which the Town might incur liability because of property damage or personal injury arising out of the use of the sidewalk or public alley for seating purposes. The minimum liability limit of the policy shall be $500,000.00;
7. An indemnity statement, approved by the Town Attorney, whereby the restaurant owners agree to indemnify and hold harmless the Town and its officers, agents, and employees from any claim arising from the operation of the outdoor dining area;
8. A copy of all permits and licenses issued by the State or the Town, including business licenses and all applicable ABC permits, necessary for the operation of the restaurant. This requirement includes any permits or certificates issued by the Town for exterior alterations or improvements to the restaurant;
9. Such additional information as may be requested by the planning director or his/her designee to determine compliance with this section;
10. A fee as provided in the Town Fee Schedule to cover the cost of processing and investigating the application and issuing the permit.
11. *Issuance of permit.* No permit for the operation of an outdoor dining area may be issued unless the application is complete and unless the following requirements are met:
	1. The outdoor dining area must be associated with an operating restaurant such that it is under the same management and shares the same food preparation facilities, restroom facilities, and other customer convenience facilities as the restaurant. The outdoor dining area must be operated under the same name as the restaurant and may not be open or be operated at any time when the restaurant is not open for business.

* 1. Tables, chairs, and barriers, as shown in the drawing or plan submitted with the permit application, may be placed on the sidewalk or public alley, but must be located in such a manner so that a minimum five-foot-wide unobstructed pedestrian corridor shall be provided at all times through the sidewalk or public alley. The outdoor dining area shall not block access to public amenities such as bicycle racks, benches, trash receptacles, and way finding or directional signs.
	2. The restaurant seeking to operate the outdoor dining area must be located at street level and must front on and open onto the sidewalk or public alley proposed for the outdoor seating area. An unobstructed pedestrian corridor of a minimum of five feet straight out must be maintained between any restaurant entrance and the pedestrian corridor.
	3. The outdoor dining area may only be located adjacent to the building. A minimum clearance of five feet shall be maintained between the outdoor dining area and edge of driveways, alleys, and handicapped ramps. At street intersections, the outdoor dining area may not extend within sight triangles.
	4. Wider pedestrian corridors or increased clearances may be required where warranted by pedestrian traffic or other circumstances or to comply with the North Carolina Building Code, Americans with Disabilities Act, or other laws.
	5. The tables, chairs, and barriers used in the outdoor dining area shall be of a type that is easily movable. These items shall not be permanently affixed to the sidewalk or public alley and must remain within the approved boundaries.
	6. Except as elsewhere permitted, the operation or furnishing of the outdoor dining area shall involve no permanent alteration to or encroachment upon any public street, sidewalk, or public alley or to the exterior of the associated restaurant.
	7. No tents or cash registers are permitted within the outdoor dining area. No electrical cords may be run from restaurant or a Town receptacle to the outdoor dining area.
	8. Except as required by subsection (d)(4) below, signage in the outdoor dining area shall conform to the applicable sign provisions of the zoning ordinance.
	9. Furniture must be made of durable material. Plastic, glass, or unfinished wood furniture is not permitted. Tabletops that are four square feet or less in area with no more than two chairs per table are permitted in the outdoor dining area.
	10. Any deviation from the above must be approved by the Town Administrator or designee.
1. *Alcoholic beverages.* Alcoholic beverages may be served at outdoor dining areas provided the following requirements are met:
	1. The outdoor dining area shall be part of a standard restaurant as defined in G.S. § 18B-1000, and shall otherwise be authorized, permitted, or licensed under state laws and the Town Code to serve and sell alcoholic beverages for on premise consumption.
	2. The portion of the outdoor dining area where alcohol is or may be served shall be delineated by clearly visible barriers and shall not have more than two designated points of ingress and egress.
	3. The outdoor dining area must be included as part of the premises for which an ABC permit for a restaurant as defined in G.S. 18B-1000, is issued, pursuant to G.S. 18B-1001, for the purpose of applying and enforcing state laws regarding the sale and consumption of alcoholic beverages on premises.
	4. Signs shall be posted, visible at all designated exit points from the outdoor dining area, that it is unlawful to remove alcoholic beverages in open or unsealed containers from the premises. The restaurant operators shall be responsible for insuring that no alcohol is served or consumed outside the designated area.
2. *Operation, appearance, and maintenance requirements.* An outdoor dining area shall be operated in such a manner to comply with the following requirements:
	1. Outdoor seating is limited to the area approved by the Town as specified on the permit application.
	2. No more patrons than can be accommodated by the actual seats provided in the outdoor dining area may occupy the outdoor dining area. This does not include patrons travelling through the outdoor dining area to enter or exit the restaurant.
	3. Except for planters and pots, all tables, chairs, barriers, and associated furnishings, including but not limited to signage, tabletop candles, and other accessory items, shall be removed from the sidewalk or public alley at closing and stored inside the restaurant unless otherwise provided in the approved permit. Pursuant to subsection (f), planters, pots, tables, chairs, barriers, and associated furnishings used in the operation of the outdoor dining area must be removed within 24 hours of notice from the Town. If such items are not removed upon the 24 hours' notice, the Town shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. The Town shall also have the right to remove such items immediately in emergency situations.
	4. Restaurant operators shall keep the outdoor dining area clean of all litter.
	5. All tables, chairs, and barriers associated with the outdoor dining area shall be kept in good repair.
	6. Compliance with all conditions required for issuance of an outdoor dining area permit shall be maintained while operating pursuant to the permit.
	7. The Town shall not be responsible for damage to outdoor dining area tables, chairs, barriers, and associated furnishings of any kind under any circumstances.
	8. The restaurant operators shall be responsible for repairing any incidental damage to any Town property resulting from the operation of the associated outdoor dining area. Any repair work shall be in accordance with applicable federal, state, and local laws, regulations, and standards.
3. *Reservation of rights.* The Town reserves the right to require any outdoor dining area established pursuant to this section to cease part or all of its operation in order to allow for construction, maintenance, or repair of any street, sidewalk, utility, or public building by the Town, its agents or employees, or by any other governmental entity or public utility; and to allow for use of the street or sidewalk in connection with parades, civic festivals, and other events of a temporary nature as permitted by the Town.
4. *Transfer and expiration.* The permit shall not be transferable. A permit shall expire as stated on the permit, but no more than 12 months after its issuance. The permit may be revoked pursuant to violating the standards set forth in this article.
5. *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:

*Outdoor dining area* means an area on a sidewalk or public alley whereon tables, chairs, barriers, and other associated furnishings are placed for the purpose of consumption of food and beverages.

*Public alley* means a strip of land, typically no more than 20 feet in width, on public property or right-of-way, which is set aside primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

*Restaurant* means an establishment engaged in the business of preparing and serving meals. To qualify as a restaurant, an establishment's gross receipts from food and nonalcoholic beverages shall not be less than 30 percent of total gross receipts. A restaurant shall also have a kitchen/preparation area and an inside dining area.

*Restaurant operator* means the person, firm, or corporation operating a restaurant and associated outdoor dining area. As used in this section, this definition includes each and every owner, and each and every Clerk if different from the owner(s), of the restaurant and associated outdoor dining area.

*Sidewalk* is the portion of the street right-of-way intended for the use of pedestrians that is between the curb and the adjacent property line. If there is no curb or right-of-way parking area, it is the portion of the street right-of-way intended for the use of pedestrians that is between the roadway and the adjacent property line. If there is no curb but there is a right-of-way parking area, it is the portion of the street right-of-way intended for the use of pedestrians that is between the right-of-way parking area and the adjacent property line.