



## AN ORDINANCE AMENDING CHAPTER 16. OF THE SOUTHPORT CODE OF ORDINANCES

BE IT ORDAINED, by the Board of Aldermen of the City of Southport that Chapter 16, of the Code of Ordinances entitled "STREETS AND SIDEWALKS" Sections 16-8 through 16-11 is hereby amended to remove, replace, and add the following:

### **Sec. 16-8. Obstruction of public rights-of-way.**

(a) Except as specifically set forth in subsections (b), (c), (d), and (e) herein or as authorized by a license issued by the board of aldermen, it shall be unlawful for any person to place or cause to be placed on any public street, road, alley, sidewalk or other public right-of-way within the city any wall, fence, gate, brick, stone, wood, rock, vegetation or other structure, material or substance above the horizontal plane of the existing ground. The installation of turf grasses on grade is allowed within the right-of-way. In addition, it shall be unlawful for any person to take any action whatsoever within any public right-of-way which creates a hazardous condition or safety hazard or which otherwise interferes with or obstructs in any manner the passage of persons or vehicles upon or within said public rights-of-way or which obstructs, interferes with or hinders lawful parking within any public right-of-way.

(b) In residentially zoned areas without off-street parking requirements, property owners shall be permitted to improve up to two (2) parking spaces no more than twenty (20) feet total in width within the right-of-way in front of their property. ~~Dimensional standards of~~ These parking spaces shall follow the provisions for driveways as described in the Unified Development Ordinance (Section 3.12.B.1). Surfacing materials for these parking spaces shall be limited to one of the following: turf grass, ~~brick,~~ pervious pavers, and pervious number 57 driveway slate gravel with wood borders no more than 2 inches above grade, ~~or concrete.~~ ~~Allowable non-pervious surfacing materials (brick, pavers, or concrete) may only be used in an area that is a minimum of 50 feet from a City Tree. The UDO Administrator may waive the requirement of a wood border if it is not appropriate due to existing conditions.~~ Parking spaces constructed by a property owner within right-of-way shall remain open for public parking and shall not be reserved for the property whose owner constructed the spaces. Such parking shall require the review and written approval of the ~~Development Services Director~~ UDO Administrator, Public Services Director, and Fire Marshal. The City reserves the right to remove these parking areas for any reason in accordance with Section 16-10. Parking surfaces existing prior to the adoption date of this ordinance shall be permitted to remain so long as the encroachments do not create a hazardous condition or safety hazard to the public.

(c) Nothing herein shall prevent any business or other legal entity located in areas zoned CBD and BD from (i) placing objects which are not otherwise prohibited under the Southport Code of Ordinances on that portion of a sidewalk which is directly abutting the



building occupied by such business or entity, provided that said items do not extend more than thirty-six (36) inches into the sidewalk and do not violate section 16-7 of the Code of Ordinances prohibiting the display of goods, or (ii) placing A-frame signs on a sidewalk or right-of-way where specifically allowed under the Southport Unified Development Ordinance. Notwithstanding this, however, no business or other entity may place or cause to be placed any object on a sidewalk so as to violate the provisions of the ADA regarding unobstructed clearance.

(d) Vegetation or other protective measures consistent with current arboricultural best management practices (ANSI A300 standards) and the guidelines outlined in the most recent City of Southport Urban Forest Management Plan shall be permitted to be placed within a ten (10) feet foot radius of the base of a City tree by an adjoining property owner, or by the City, for the purpose of limiting damage to the tree by nearby parked vehicles.

Such action shall require review and written approval by the ~~Development Services Director~~ UDO Administrator, the Public Services Director, and the Fire Marshal.

(e) Nothing herein shall prevent the City to install drainage or safety structures for protection of private property.

#### **Sec. 16-9. Construction near sidewalk.**

Before building or remodeling any place where the same is in close proximity to the sidewalk, a passageway shall be constructed so as to leave the sidewalk unobstructed and provide safe and easy passage.  
(Code 1974, § 5.32)

#### **Sec. 16-10. Existing encroachments on rights-of-way.**

a) In the event that the Southport Code Enforcement Officer determines that there exists any encroachment, obstacle, vegetation, wares, goods or other condition within a public right-of way or sidewalk in violation of section 16-7 or section 16-8 of this Code or which interferes with the free passage of persons or vehicles within said right-of-way or sidewalk, or which otherwise creates a hazard to the public, said code enforcement officer shall attempt to identify the person(s) responsible for said obstacle or encroachment. This includes hardscapes, decorative rock walls, fountains, and similar items. Upon identification, the code enforcement officer shall notify in writing said responsible person(s) who shall have seventy-two (72) hours from the date of notification to remove nonpermanent installations of said encroachment or condition. Permanent installations shall be removed within 90 days from the date of notification of said encroachment. In the event that the responsible party fails to remove said obstacle or encroachment within the time allowed, and in addition to other remedies as allowed by law, the city may promptly remove said obstacle or encroachment and shall charge the cost of said removal to the party responsible for said obstacle, encroachment, or condition. In the event that the code enforcement officer is not able to identify the responsible party, or if the condition or encroachment creates an imminent and immediate danger to the public, the city may summarily remove said encroachment or other condition within the right-of-way without



notice. Following removal, any future encroachment must be done in accordance with the provisions of all applicable ordinances.

**b) Vegetative Encroachments**

- I. Vegetative right-of-way encroachments existing prior to the adoption date of this ordinance shall be permitted to remain so long as the encroachments do not create a hazard to the public. Such encroachments shall not be permitted to be expanded, and the City reserves the right to remove a right-of-way encroachment for any public purpose and shall not be liable for the removal of those encroachments. Existing vegetation right-of-way encroachments removed at any time by the City for a public purpose are allowed to be reconstructed, if possible, at the property owner's expense.
- II. Private installation of native trees within the right-of-way is permitted when city trees must be removed for construction or when a tree must be removed due to the health of the tree. Canopy and understory installation shall follow

standards found in the UDO, current arboricultural best management practices (ANSI A300 standards), and the guidelines outlined in the most recent City of Southport Urban Forest Management Plan. Such action shall require review and written approval by the UDO Administrator in consultation with the Forestry Committee.

(c) Where curb and public sidewalks exist, private fences, walls, and vegetation installed up to the private property side of the sidewalk existing at the time of the adoption of this ordinance may remain. All approvals and building permits must be obtained for maintenance or replacement of existing fences and walls.

(d) Any wall or fence located in the right-of-way in the designated National Historic Register or in the adopted local historic district(s) built on or before December 31, 1980, may remain after written determination by the UDO Administrator and Historic Preservation Commission that the structure contributes to the historic character of the district.

(e) The City reserves the right to remove a right-of-way encroachment for any public purpose and shall not be liable for the removal of those encroachments and shall levy the cost of removal in accordance with Section 16-10(a) above.

**Sec. 16-11. Gates opening on streets and sidewalks.**

No gate to any residence, lot or other enclosure in the city shall swing or open outward over the street or sidewalk. Each day any gate is allowed to open outward over the sidewalk or street, shall constitute a separate offense.

(Code 1974, § 5.35)

There shall be a 6-month grace period for enforcement of this ordinance. All code enforcement cases open prior to adoption of this ordinance shall remain open and processed consistent with the ordinance prior to this adoption.

The foregoing Ordinance, having been submitted to a vote, received the following vote and was duly adopted this the 12<sup>th</sup> day of December 2024.

Ayes: 4

Noes: 1

Absent or Excused: 1



Rich Alt  
Mayor



Noah Saldo  
City Clerk

