

ORDINANCE NO. 2025-_____

AN ORDINANCE AMENDING SECTION 18-11 OF THE APEX TOWN CODE FOR THE USE OF TOWN RIGHTS-OF-WAY FOR PLACEMENT OF AUTHORIZED PERSONAL PROPERTY

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF APEX AS FOLLOWS:

Section 1. Sec. 18-11 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text:

Sec. 18-11. – Obstructions-Structures; vehicles.

(a) It shall be unlawful to build, erect, construct or place any porch, steps, fence, wall, storage pod, dumpster, construction materials, construction equipment, similar items, or other obstruction whatsoever in or over any of the streets or sidewalks. It shall be unlawful to obstruct any sidewalk or street with any buggy, wheelbarrow, wagon, automobile, truck or other vehicle, railroad car, chair, bench, open gate, chicken coop, box or other article; provided, that a margin not exceeding two and one-half feet in width on the inside of the sidewalk in the business blocks shall be allowed for the exhibition of merchandise by abutting merchants; provided further, that this section shall not apply to baby carriages and invalid chairs rolled on the sidewalks in such manner as not to obstruct the same. A violation of this section is punishable as a misdemeanor as provided by G.S. 14-4.

(b) Notwithstanding the provisions of Town Code subsection 18-11(a) and section 18-12, downtown sidewalk food service tables may be placed and used on the sidewalks in the Central Business District of the Town of Apex as provided in this subsection 18-11(b) except when the street is temporarily closed to regular traffic for special events. A "downtown sidewalk food service table" is a table used for food service by a food service provider and located on a public sidewalk directly in front of the food service provider's place of business in the Central Business District. Downtown sidewalk food service tables are subject to the following requirements:

- (1) No downtown sidewalk food service table nor any chairs or other items used in connection with one shall reduce the clear accessible travel path of the sidewalk to a width of less than 36 inches. The width of the clear accessible travel path shall be measured from the street-side edge of the concrete sidewalk perpendicularly toward the building-side edge of the concrete sidewalk.

- (2) Downtown sidewalk food service tables and all chairs and other items used in connection with them shall be situated, outfitted and used in a manner that does not constitute a hazard to persons using the sidewalks.
 - (3) No person shall place, use or operate a downtown sidewalk food service table except as authorized by a site specific development plan approved by the Apex Planning Department.
- (c) Notwithstanding the provisions of Town Code subsection 18-11(a) and section 18-12, outdoor displays and signs that comply with all other applicable provisions of the Apex Town Code, the Unified Development Ordinance and the other standards and specifications of the town shall be permissible on a public sidewalk in the Central Business District directly in front of the place of business to which the display or sign relates, except when the street is temporarily closed to regular traffic for special events. Outdoor displays and signs on sidewalks in the Central Business District are subject to the following requirements:
- (1) No outdoor display or sign located on a sidewalk shall reduce the clear accessible travel path of the sidewalk to a width of less than 36 inches. The width of the clear accessible travel path shall be measured from the street-side edge of the concrete sidewalk perpendicularly toward the building-side edge of the concrete sidewalk.
 - (2) Outdoor displays and signs located on a sidewalk shall be situated, outfitted and used in a manner that does not constitute a hazard to persons using the sidewalks.

(d) Designation of Temporary Areas for Authorized Personal Property Placement.

- (1) Notwithstanding subsection 18-11(a), the Police Chief, or a duly authorized representative of the Police Chief, is hereby authorized to designate certain areas within the town's public rights-of-way where private parties may place authorized personal property for a period not exceeding forty-eight (48) hours, under the conditions and limitations so designated by the Police Chief.**
- (2) Authorized personal property may only be placed in designated areas and for a period not exceeding forty-eight (48) consecutive hours, and shall be placed no sooner than twenty-four (24) hours prior to the beginning of the special event and removed no later than twenty-four (24) hours after the conclusion of the special event. At no time may any authorized private property remain in the designated area beyond this period unless authorized by law or the Police Chief. The placement of authorized personal property must not obstruct pedestrian or vehicular traffic, nor interfere with use of the right-of-way, including but not limited to utilities, town services, or public safety operations.**
- (3) No Other Rights or Privileges Impacted or Established. Nothing in this section 18-11 shall create, confer, amend, modify, or abridge any existing rights of**

other parties in the town's rights-of-way, nor does it create, confer, or establish any permanent or ongoing rights to private parties for the use of the town's rights-of-way. The use of designated areas for the placement of authorized personal property is limited to the terms specified in this section and is revocable at any time by the Police Chief or other duly authorized town officials.

(4) *No Bailment Created.* Nothing in this section 18-11 shall be construed to create a bailment or any legal obligation between the town or its Police Department and any private party placing authorized personal property in the designated areas. The town does not assume any responsibility for the placement, condition, security, or maintenance of authorized personal property placed within these designated areas, and private parties do so at their own risk.

(5) *Enforcement and Penalties.*

(a) Any authorized personal property placed or remaining in the designated areas in violation of this section may be removed and disposed of by the Police Chief or their designee. Costs incurred from removal or disposal of authorized personal property may be charged to the owner or party who places authorized personal property in the right of way or allows such authorized personal property to remain after the permitted time period.

(b) The owner or party placing the authorized personal property in the designated area shall be solely responsible for any damage to the designated area, right-of-way, town property, adjoining property, or injury to persons resulting from such placement.

Section 2. Severability, Conflict of Laws.

If any section, sentence, clause, or phrase of this ordinance or application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect other provisions or applications of the ordinance which can be given separate effect and to the end the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 3. Codification.

It is the intention of the governing body, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances and the sections of this ordinance may be renumbered to accomplish such intention.

Section 4. Technical Corrections.

The Town Clerk and/or Town Manager are hereby authorized to renumber, revise formatting, correct typographic errors, to verify and correct cross references, indexes and diagrams as necessary to codify, publish, and/or accomplish the provisions of this Ordinance or future amendments as long as doing so does not alter the terms of this Ordinance.

Section 5. Effective Date.

This ordinance shall become effective upon adoption.

Introduced by Council Member: _____

Seconded by Council Member: _____

This the ____ day of _____, 2025.

Jacques K. Gilbert
Mayor

ATTEST:

Allen L. Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Laurie L. Hohe
Town Attorney