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## Sec. 46-81. Obstructions.

- (a) *Generally.* G.S. 160A-296 imposes upon cities the duty to keep public streets and sidewalks free from unnecessary obstructions. This section applies to all obstructions of whatever nature, whether temporary or permanent. Section 46-82 applies only to encroachments, which are defined as structural improvements on city rights-of-way. Not all obstructions are encroachments, but all encroachments are obstructions and may be regulated under both sections.
- (b) *Obstructions and their removal.* Obstructions shall be removed as follows:
- (1) *Deemed nuisance; abatement; costs.* It shall be unlawful for any person to erect, locate or permit to remain in any street or sidewalk of the city any obstruction that will interfere with the use of the street or sidewalk by the public. Any obstruction which shall remain in any street or sidewalk after notice or demand for its removal by the city shall be deemed a public nuisance, and it shall be the duty of the director of public works or chief of police to abate such nuisance by the summary removal of the obstruction, and to charge the cost thereof to the person responsible for its existence.
  - (2) *Fine.* If any person, after having been notified by the city to remove any obstruction from any street or sidewalk shall refuse or fail to remove it, such person shall forfeit and pay to the city the sum of \$50.00 for each day the obstruction shall remain unremoved. For the purpose of this section, each day shall constitute a separate cause of action, and notice to any agent or servant of any person shall be deemed notice to the principal.
  - (3) *Exceptions to section provisions.* The provisions of this section shall not apply in the following circumstances:
    - a. Loading, unloading, moving or transporting materials;
    - b. Standard covered garbage cans, at the time and place designated by order of the director of public works;
    - c. In the case of a written permit for construction, maintenance, advertising, and such other purposes as are provided by ordinance; and
    - d. Signs, public benches and any other item placed by the city.
- (c) *Displaying goods or wares.* Except as otherwise provided in this section or in conjunction with special event permits, it shall be unlawful for any person to obstruct entirely or in part any right-of-way, street or sidewalk of the city, by displaying, offering for sale or selling, at auction or otherwise, any goods, wares or merchandise thereon.
- (d) *Permission for placing material in streets.* It shall be unlawful to place any brick, stone, lumber, sand or other building material upon any of the streets or sidewalks of the city without first having obtained from the city manager, or his designee, permission in writing therefor, and then only under such reasonable restrictions as may be prescribed by him for the public safety.
- (e) *Use of sidewalks by merchants.* Notwithstanding the provisions of subsection (c) of this section, in those circumstances where the building in which a business is located is contiguous with a public sidewalk, merchants doing business in such building may make limited use of the sidewalk in accordance with this subsection. In such circumstances, merchants may use the adjacent sidewalk for decoration, the display of wares, and/or a portable sign advertising the business so long as they leave at least a continuous five-foot width of unobstructed sidewalk. In any event, the width of the sidewalk used by a merchant under this subsection shall not exceed 36 inches except during the Apple Festival, merchants may use 48 inches of sidewalk for the display of merchandise. It is the intent of this subsection that such use shall be temporary in nature and items placed on sidewalks shall not be permitted to remain overnight.

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(f) In addition to any other remedy available, violation of this section is also a misdemeanor as provided in section 1-6.

(Code 1971, § 28-35; Ord. of 11-5-96, § 2; Ord. No. 08-0841, 1, 8-7-08; Ord. No. 11-0633, § 1, 6-2-11; Ord. No. 23-13, § 25, 3-2-23)