

Town of Badin Ordinance 12-2

AN ORDINANCE AMENDING ORDINANCE 03-1 LIMITING RIGHT-OF-WAY OBSTRUCTIONS IN THE TOWN OF BADIN

Be It Ordained by the Town Council of the Town of Badin as follows:

WHEREAS, obstructions and excavations in Town-owned rights-of-way disrupt and interfere with public use of the rights-of-way; and

WHEREAS, obstructions and excavations in Town-owned rights-of-way result in loss of parking and loss of business to merchants and others whose places of business are in the vicinity of such obstructions and excavations; and

WHEREAS, it is desirable to adopt policies and regulations which enable the Town of Badin to gain greater control over disruption and interference with the public use of public streets and rights-of-way, in order to provide for the health, safety and well-being of the Town's residents and users of Town streets and rights-of-way are hereafter defined;

THEREFORE, be it ordained by the Badin Town Council;

Section 1 — Obstructions in street and highway right-of-way prohibited.

(a) For the purposes of this section, “obstruction” means and is defined as any object, building or sign, whether man made or natural, including, without limitation, tall ornamental grasses, bushes, shrubs, dirt and sand berms, fences, yard decorations, stakes, poles, posts, bulkheads, large stones/rocks and concrete or other masonry walls.

(b) All obstructions are prohibited from the right-of-way of all streets and highways in the Town. For the purposes of this ordinance, right-of-way is defined as any public street, way, place, alley, sidewalk, easement, park, square, plaza, and Town-owned right-of-way dedicated to public use.

(c) Prohibited obstructions include, but are not limited to; leaves, grass clippings, mulching material, cut vegetation, pruning remnants, limbs, brush or other foliage, any and all debris left behind by contracted laborers or other paid service providers deposited onto public property or right-of-way including all plots, parcels, throughways, easements and real property.

(d) The following shall be excluded from prohibition:

(1) Storm debris and acts of God;

(2) Leaves properly placed curbside for seasonal collection during municipally scheduled collection times;

(3) Limb and brush debris of no more than ten (10) feet in length and no more than six (6) inches in diameter placed curbside for monthly collection no more than one week prior to scheduled collection;

(4) Existing trees and anything installed by the Town, county, state or a utility on approved easements or as allowed by other sections of the Town Code of Ordinances. The Town is not responsible for any damage incurred to, by way of illustration, obstructions, plantings or underground irrigation systems placed on the Town-owned right-of-way when such damage occurs as a result of any activity conducted by the Town in support of its rights-of-way.

(5) Garbage / recycling containers, branches / brush, and other items temporarily placed on the right-of-way for scheduled pickup at designated times by the Town or other service provider.

(6) Property-address signs meeting all other Town Code of Ordinances.

(e) Placement of signs on the Town right-of way and private property is regulated by Chapter 8 of the Town of Badin Zoning Ordinance.

Section 2 — Trees

The Town at its discretion may remove existing trees on Town-owned rights-of-way. Property owners or their agents may also remove trees on the Town-owned right-of-way with the permission of the Town, which shall be obtained by way of the following procedure:

A property owner or his agent shall complete a “Request to remove tree from right-of-way” form, which may be obtained from the clerk at Badin Town Hall. The property owner or his agent's request to remove a tree from right-of-way will at least state the following: the requested date of removal; address of property where removal will occur; type of tree to be removed (dogwood, oak, etc.); approximate height of the tree; approximate circumference of the tree trunk starting at a point measured at least four feet from the ground and no more than six feet from the ground; reason for removal; date for completion of removal.

The Town Manager will review the removal request and grant or deny the request no more than ten (10) working days after the request is submitted. The Town reserves the right to deny or grant a removal request for any reason it deems necessary to provide for the health, safety and well-being of the Town's residents and users of Town streets. The property owner or his agent will be notified in writing of the Town manager's decision.

Brush, vines and trees less than four inches in diameter may be removed without restriction at the discretion and expense of the property owner.

Section 3 — Abatement by Town – Generally

(a) The Town recognizes the fact that some obstructions have been placed on the Town-owned right-of-way prior to the enactment of this ordinance. Such obstructions are allowed to

temporarily remain on the right-of-way at the sole discretion of the Town. The Town may order the removal of any obstructions at any time as provided in paragraph (b) of this section.

(b) If any person, having been ordered in writing by the Town Council or Town Manager to abate an obstruction in a Town-owned right-of-way, fails, neglects or refuses to abate or remove the condition constituting the obstruction within ten (10) days from receipt of an order to remove an obstruction, the Town Manager or his designee may cause such condition to be removed or otherwise remedied by having employees of the Town or independent contractors remove or otherwise abate such nuisance at the owners expense.

(c) Any person causing, permitting, or allowing an obstruction to exist who has been ordered to abate or remove the obstruction, may within the time allowed by this chapter, request the Town in writing to suggest possible contractors to remove such condition, the cost of which shall be paid directly to the contractor by the person ordered by the Town to remove the obstruction.

Section 4 — Costs

The actual cost incurred by the Town in removing an obstruction from a street right-of-way shall be charged to the owner of such lot or parcel of land that caused, permitted, or allowed the obstruction to exist; If such costs charged in accordance with this section are not paid as herein stated, the costs shall be a lien upon the land or premises and shall be collected as unpaid taxes in accordance to NC Statute 160A-193.

Section 5 — Remedies and Penalties

In addition to the remedies provided in Section 4, the Town may enforce the provisions of this ordinance using the remedies set forth in NC Statute 14-4 (a).

Duly passed by Badin Town Council this the14th day of February 2012.