CHAPTER 16

STREETS AND SIDEWALKS[1]

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[1]For State law as to Town's authority over street, etc., see Code of Virginia § 15-1-14. For Charter provisions as to acquisition of property for roadway purposes, see Char., §§ 8-A.1 to 8-A.5. As to permits for parades and processions, see § 9-9 of this Code. As to parking regulations generally, see § 9-12. As to prohibition against parking in public place in excess of forty-eight hours, see § 9-13. As to use of streets by trucks, see §§ 9-48 to 9-54. As to prohibition against dumping trash on highway, see § 13-2. As to standards for streets and subdivisions, see §§ 17-34 to 17-50. As to standards for alleys in subdivisions, see §§ 17-51 to 17-54.

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Article 1. In General

Sec. 16-1 Warnings of Street Hazards.

Any person creating a condition upon any street, alley, or sidewalk in the Town which is hazardous to pedestrian or motor vehicle traffic shall cause a warning light to be placed on such obstruction, which warning light shall be kept burning from sunset to sunrise.
(Code 1962, § 5-60; 3-66)

Sec. 16-1.1 Approved permit for work in public right-of-way required.

(a) It shall be unlawful for any person, firm or corporation to occupy or do any work of any kind in any street, highway, public right-of-way, easement or other area dedicated to the public use within the Town of Vienna without having first made application to the Department of Public Works and having received approved plans covering the work and a permit to do the work as shown on such plans.

(b) All construction, planting, modifications, repair work, or maintenance of any nature performed by any individual, firm or corporation shall be performed according to the permit, plans, specifications, regulations and written instructions of the Department of Public Works unless otherwise specified. The Department may waive the requirements of formal plans where the work to be done is of a routine nature and is so limited in scope as not to require detailed plans and specifications for its proper execution

(c) Permits that have been approved shall become null and void if no work has been started within six months after the date of approval, or if after starting the work there in a period of six months in which there has been no work performed in accordance with the approved plans, or shall become null and void as specified in the Code of Virginia, unless a reasonable additional delay in completion of construction has been approved by the Director of Public Works.

(d) Inspection. In order to make the proper check of the work done, the owner, contractor or agent will notify the Department of Public Works upon the completion of each portion or type of work done under the permit so that proper inspection may be made to determine its correctness, such as the inspection of grade or rough excavation, drainage structures and utility lines before backfilling, storm sewers before backfilling, curb and gutter forms before placing concrete, subgrade before placing surface, and completion of the surface of street.

(e) Maintenance of traffic. All construction or repair work being done by any person, firm, or corporation in any street, highway, public right-of-way, easement, or other area dedicated to public use shall be sufficiently and adequately protected by barricades at all times. Traffic controls for street construction, maintenance, and utility operations shall conform to the Manual on Uniform Traffic Control Devices published by the Federal Highway Administration. Such warning devices shall be maintained at all times. Both pedestrian and vehicular traffic shall be maintained at all times except as approved in accordance with the approved permit for the work.

(f) Charges. The cost of the engineering services rendered by the Department of Public Works including studies, approval of plans, permit issuance, supervision and inspection of construction, are described in the fee schedule in §1-13 of this Code.

Sec. 16-2 Placing Dirt, Ashes, Etc., Upon Streets Prohibited; Exceptions.

It shall be unlawful for any person to throw or place dirt, ashes, stone, wood or any other material upon any street within the Town; provided, that the penalty for violation of this section shall not be imposed upon persons placing building materials upon a street, in connection with construction work, after having obtained a permit from the Director of Public Works to place such materials upon the street for a limited period of time and having placed such materials in the space designated and manner directed by the Director of Public Works, and having not permitted the same to remain there longer than the limited period stipulated in the permit.
(Code 1962, §5-59; 3-66)

Sec. 16-2.1 Riding of Horses and Ponies on Sidewalks, Sidewalk Areas, Etc.

It shall be unlawful for any person to ride or lead any horse or pony on any sidewalk or sidewalk area, paved or unpaved, or in any area between any sidewalk and any curb or curb line in the Town. (11-3-69)

Sec. 16.2.2 Storm Drainage Facilities - Maintenance and Cleanliness. (Adopted 9-25-72)

It shall be unlawful for any person, firm or corporation to deposit, or cause to be deposited, in any public storm drainage facility, including gutters, ditches and water courses, any substance including, but not limited to, trash, accumulations of grass clippings, petroleum products, petroleum waste, or other noxious or flammable substance; provided, however, that leaves may be piled at curbs during such seasons and in such areas as may now or in the future be furnished mechanical leaf collection service.

Article 2. Construction of Sidewalks

Sec. 16-3 Declaration of Necessity.

The Town Council may, upon its own motion, or in response to a petition submitted by others, declare the necessity for a sidewalk along any developed street. (6-5-67, §1)

Sec. 16-4 Determination of Type of Sidewalk to be Constructed and Allocation of Costs.

The Town Council shall determine the type of sidewalk to be constructed and the method of allocation of costs, based upon the following factors:

(a) The existence of curbs and gutters along the street under consideration.
(b) The necessity of widening the street. In general, only those streets designated as major arterial, inner loop and secondary shall be considered for widening at public expense.
(c) Topographic features, including drainage problems.
(d) The extent to which the abutting property owners are willing to participate in costs. (6-5-67, §2)

Sec. 16-5 When Portland Cement Sidewalks to be Constructed.

Portland cement concrete sidewalks shall be constructed where any of the following exists:

(a) Curbs and gutters are already in place.
(b) The necessity for widening the street at public expense will justify the installation of curbs, gutters and the necessary storm drainage.
(c) Property owners along the street will bear their pro-rata share of the cost of sidewalk improvements and at least fifty percent (50%) of the cost of curbs and gutters and storm drainage. (6-5-67, § 3)

Sec. 16-6 Construction of Asphaltic Concrete or Gravel Sidewalks.

Asphaltic concrete sidewalks or gravel sidewalks shall be constructed along all streets other than described in §16-5 when sidewalk construction is deemed necessary. (6-5-67, § 4)

Sec. 16-7 Assessments of Cost of Portland Cement Concrete Sidewalks.

(a) Assessments for the cost of Portland cement concrete sidewalks only shall be as follows:

(1) The property owner shall be assessed fifty percent (50%) of the cost of any permanent concrete sidewalk construction along the property owner's lot

frontage; except, that in no case shall the property owner be assessed for more than one hundred (100) feet of front footage.

(2) The property owner shall be assessed for twenty-five percent (25%) of the cost of any permanent concrete sidewalk constructed along the side yard of any property; except, that in no case shall the property owner be assessed for more than one hundred (100) feet of side footage.

(3) Where property is owned and occupied by a church, fraternal club, philanthropic or charitable organization, such church, club or organization shall be assessed for twenty-five percent (25%) of the total cost of installing all footage of sidewalk abutting its property.

(4) Up to five (5) annual installments shall be allowed for the payment of any sidewalk assessments with interest at six percent (6%) per annum being assessed on the unpaid balance beginning at the beginning of the third year.

(5) The administrative procedures as set forth in §§15.1-239 through 15.1-247 of the Code of Virginia shall govern in the assessment of construction costs.

(b) When a lot is composed of a total square footage that is double or greater than double the minimum square footage required in the zone in which the lot is located, the provisions of this section shall not apply. The assessed cost for such lot shall be fifty percent (50%) of the cost of the total front and side footage; provided, that this policy shall not apply to property that would normally be considered suitable for subdivision. (6-5-67, §§5,6)

Article 3. Snow Emergency Ordinance (Adopted 6-22-70)

Sec. 16-8 Definitions.

The Manager. The Town Manager for the Town of Vienna, or in his absence, his duly designated and acting representative.

Street or Highway. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Roadway. That portion of a street or highway improved, designed, or ordinarily used for vehicular travel exclusive of the berm or shoulder.

Snow Emergency Route. Those streets marked as such in accordance with the provisions of this ordinance.

Local Streets. All streets designated as other than main arterial, inner loop and secondary on the Master Street Plan of the Town of Vienna, Virginia.

Snow Tires. Any tires mounted on drive wheels of motor vehicles which are especially designed to give effective traction on snow, mud, or ice-covered streets by means of extra heavy duty treads with special high-traction patterns, except that no tire so defined shall be construed to be a snow tire if it is damaged or worn to the extent that its performance would be substantially impaired.

Tire Chains. Any metal chains mounted on drive wheel tires of motor vehicles which cross the tread of each such tire laterally in at least three different places.

Sec. 16-9 Parking on Snow Emergency Routes.

(a) Whenever the Manager finds on the basis of falling snow, sleet, or freezing rain, or on the basis of a forecast by the U.S. Weather Bureau or other weather service of snow, sleet, or freezing rain, that weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on Town streets be prohibited or restricted for snow plowing and other purposes, the Manager shall put into effect a parking prohibition on parts of or all Snow Emergency Routes as necessary by declaring it in a manner prescribed by this ordinance.

(b) Notwithstanding the provisions of subsection (a) hereof, a parking prohibition shall automatically go into effect on any part of any Snow Emergency Route on which there has been an accumulation of snow and ice of three (3) inches or more for one hour or more between 5:00 a.m. and 11:00 p.m. of any day.

(c) Once in effect, a prohibition under this section shall remain in effect until terminated by an announcement of the Manager in accordance with this ordinance, except that any street area which has become substantially clear of snow and ice from curb to curb for the length of the entire block shall be automatically excluded therefrom. While the prohibition is in effect, no person shall park or allow to remain parked any vehicle on any portion of a Snow Emergency Route to which it applies. However, nothing in this section shall be construed to permit parking at any time or place where it is forbidden by any other provision of law.

Sec. 16-10 Parking on Local Streets.

(a) Whenever the Manager finds, on the basis of falling snow, sleet, freezing rain, or on the basis of a forecast by the U.S. Weather bureau or other weather service of snow, sleet, or freezing rain, that weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on Town streets be prohibited or restricted for snow plowing, and other purposes, the Manager shall put into effect a parking prohibition on parts of or all local streets as necessary by declaring it in a manner prescribed by this ordinance. The prohibition shall remain in effect until terminated by announcement of the Manager in accordance with this ordinance, except that any street area which has become substantially clear of snow and ice from curb to median line for the length of the entire block shall be automatically excluded therefrom.

(b) While the prohibition is in effect, no person shall park or allow to remain parked any vehicle on any street to which it applies during the time from 7:00 a.m. until 11:30 p.m. of any day.

(c) However, nothing in this section shall be construed to permit parking at any time or place where it is forbidden by any provision of law.

Sec. 16-11 Advancement of Quitting Time Traffic Regulations.

Whenever the Manager finds, on the basis of falling snow, sleet or freezing rain, or on the basis of a forecast by the U.S. Weather Bureau or other weather service of snow, sleet, or freezing rain, that weather conditions will make it necessary that motor vehicle traffic be expedited; and whenever he finds additionally that large numbers of employees within the Town and the surrounding metropolitan area are to be dismissed from duty in advance of their normal quitting time because of weather conditions and that such dismissal will advance the beginning of heavy quitting time traffic, he shall, by making a declaration in a manner prescribed by this ordinance, appropriately advance the effective time of those traffic regulations which normally go into effect just before quitting time for the working day such as, for example, (and not by way of limitation) those relating to standing, parking, one-way streets, unbalanced lanes, and left turns. The regulations as so advanced in their operation shall remain in effect until their normal termination at 8:00 p.m., or otherwise, as may be indicated at specific locations. However, nothing in this section shall be construed to permit parking at any time or place where it is forbidden by any other section of this ordinance.

Sec. 16-12 Condition of Motor Vehicle Operated on Snow Emergency Routes.

(a) No person operating a motor vehicle on a Snow Emergency Route on which there is a covering of snow, sleet, or ice shall allow such vehicle to become stalled wholly or partly because the drive wheels thereof are not equipped with effective tire chains or snow tires.

(b) No person operating a motor vehicle on a part of a Snow Emergency Route on which there is a covering of snow, sleet, or ice, or on which there is a parking prohibition in effect shall allow such vehicle to become stalled because the motor fuel is exhausted or the battery has become inoperative.

Sec. 16-13 Stalled Vehicles on Snow Emergency Route.

Whenever a vehicle becomes stalled for any reason, whether or not in violation of this ordinance, on any part of a Snow Emergency Route on which there is a covering of snow, sleet, or ice, or on which there is a parking prohibition in effect, the person operating such vehicle shall take immediate action to have the vehicle towed or pushed off the roadway of such Snow Emergency Route either into the first cross street which is not a Snow Emergency Route, or onto the public space portion of a nearby driveway. No person shall abandon or leave his vehicle in the roadway of a Snow Emergency Route (regardless of whether he indicates, by raising the hood

or otherwise, that the vehicle is stalled) except for the purpose of securing assistance during the actual time necessary to go to a nearby garage, gasoline station, or other place of assistance and return without delay.

Sec. 16-14 Declarations of the Manager.

(a) The Manager shall cause each declaration made by him pursuant to this ordinance to be publicly announced by means of broadcasts from stations with a normal operating range covering the Town, and he may cause such declaration to be further announced in newspapers of general circulation when feasible. Each announcement shall describe the action taken by the Manager, including the time it became or will become effective, and shall specify the streets or areas affected. A parking prohibition or advancement of quitting time traffic regulations declared by the Manager shall go into effect one hour after it has been announced at least two times between 8:00 a.m. and 3:00 p.m. in accordance with this section.

(b) The Manager shall make or cause to be made a record of each time and date when any declaration is announced to the public in accordance with this section.

Sec. 16-15 Termination of Parking Prohibition.

Whenever the Manager shall find that some or all of the conditions which give rise to a parking prohibition in effect pursuant to this ordinance no longer exist, he may declare the prohibition terminated, in whole or in part, in a manner prescribed by this ordinance effective immediately upon announcement.

Sec. 16-16 Provisions Temporarily Effective to Take Precedence.

Any provision of this ordinance which becomes effective by declaration of the Manager or upon the occurrence of certain weather conditions shall, while temporarily in effect, take precedence over other conflicting provisions of law normally in effect, except that it shall not take precedence over provisions of law relating to traffic accidents, emergency travel of authorized emergency vehicles, or emergency traffic directions by a police officer.

Sec. 16-17 Signs to Mark Snow Emergency Routes.

On each street designated by this ordinance as a Snow Emergency Route, the Manager shall post special signs at intervals not exceeding 1500 feet with the wording "Snow Emergency Route. No Parking or Impeding Traffic Flow During Emergency. Towing Enforced." These signs shall be distinctive and uniform in appearance and shall be plainly readable to persons traveling on the street or highway. (Amend. 12-70)

Sec. 16-18 Removal, Impounding, and Return of Vehicles.

(a) Members of the Police Department are hereby authorized to remove or have removed a vehicle from a street to the nearest garage or other place of safety (including another place on a street) or to an area designated or maintained by the Police Department, or otherwise maintained by this Town, when:

(1) The vehicle is parked on a part of a Snow Emergency Route on which a parking prohibition is in effect.

(2) The vehicle is stalled on a part of a Snow Emergency Route on which there is a covering of snow, sleet or ice, or on which there is a parking prohibition in effect and the person who was operating such vehicle does not appear to be removing it in accordance with the provisions of this ordinance.

(3) The vehicle is parked in violation of any parking ordinance or provision of law and is interfering or about to interfere with snow removal operations.

(b) Whenever an officer removes or has removed a vehicle from a street as authorized in this section and the officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefor and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.

(c) Whenever an officer removes or has removed a vehicle from a street under this section and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as hereinbefore provided, and in the event the vehicle is not returned to the owner within a period of three (3) days, then and in that event, the officer shall immediately send or cause to be sent a written report of such removal by mail to the State department whose duty it is to register motor vehicles, and shall file a copy of such notice with the proprietor of any public garage in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, the date, time and place from which removed, the reasons for such removal, and the name of the garage or place where the vehicle is stored.

(d) No person shall recover any vehicle removed in accordance with this section except as provided herein. Before the owner or person in charge of such vehicle shall be allowed to recover it from the place where it has been placed or impounded, he shall present to a member of the Police Department evidence of his identity and right to possession of the vehicle, shall sign a receipt for its return, shall pay the cost of removal not to exceed twenty dollars ($20.00), and shall pay any cost of storage accrued not to exceed three dollars ($3.00) for the first day or portion thereof, and three dollars ($3.00) for each additional day or portion thereof thereafter. Until paid, these charges constitute a lien on the vehicle which may be enforced in the same manner as a garage keeper's lien in accordance with the provisions of law.

(e) It shall be the duty of the Police Department to keep a record of each vehicle removed in accordance with this section. The record shall include a description of the vehicle, its license number, the date and time of its removal, where it was removed from, its location, the name and address of its owner and last operator, if known, its final disposition and the parking violation involved.

(f) This section shall be supplemental to any other provisions of law granting members of the Police Department authority to remove vehicles.

Sec. 16-19 Citation on Vehicle Parked or Left in Violation of Ordinance.

Whenever any motor vehicle without a driver is found parked or left in violation of any provision of this ordinance, and is not removed and impounded as provided for in this ordinance, the officer finding such vehicle shall take its registration number and any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a traffic citation, on a form provided by the Chief of Police, for the driver to answer to the charge against him within fourteen (14) days during the hours and at a place specified in the citation.

Sec. 16-20 Failure to Comply with Traffic Citation Attached to Vehicle.

If a violator of this ordinance does not appear in response to a traffic citation affixed to such motor vehicle in accordance with this ordinance within a period of fourteen (14) days, the Clerk of Court shall send the owner of the motor vehicle to which the traffic citation was affixed a letter informing him of the violation and warning him that in the event such letter is disregarded for a period of seven (7) days, a warrant of arrest will be issued.

Sec. 16-21 Evidence with Respect to Vehicles Parked or Left in Violation of Ordinance.

In any prosecution with regard to a vehicle parked or left in a place or in a condition in violation of any provision of this ordinance, proof that the particular vehicle described in the complaint was parked or left in violation of a provision of this ordinance, together with proof that the defendant named in the complaint was at the time the registered owner of such vehicle, shall constitute prima facie evidence that the defendant was the person who parked or left the vehicle in violation of this ordinance.

Sec. 16-22 Snow Emergency Routes Designated.

The following streets or portions of streets within the Town are hereby designated as Snow Emergency Routes: all streets designated on the Master Street Plan dated March 16, 1965, (or any revision thereof) as main arterial, inner loop and secondary.

Sec. 16-23 Penalties.

Every person, firm or company violating any provision of this ordinance shall be guilty of a misdemeanor.

Sec. 16-24 Separability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not effect the validity of the remaining portions hereof. (Amend. 6-70)

Article 4. Encroachment of Certain Vegetation (Adopted 12-1-80)

Sec. 16-25 Trees, Shrubs, Vines, Hedges, Etc.--Encroachment on Sidewalks and Rights-of-Way Prohibited.

It shall be unlawful for the owners of property within the Town to allow tree branches, shrubs, vines, or hedges to overhang sidewalks or other public rights-of-way in such a manner as to obstruct the free movement of, or endanger pedestrians or bicyclists using such sidewalks.

Sec. 16-26 Same -- Notice To Cut. (Amend. 9/14/98)

Where tree branches, shrubs, vines, or hedges on such property are found to so obstruct sidewalks or rights-of-way, the Director of Parks and Recreation shall immediately notify the owner of such property to cut such tree branches, shrubs, vines, or hedges so as to render any effected sidewalks or rights-of-way free of obstruction.

Such notice shall be in writing and sent by certified mail to the occupant of such property or the owner thereof at his last known address as reflected on the real property tax records of the Town. If after diligent inquiry, no address can be found for such owner, the notice herein referred to shall be posted in a conspicuous place on the property.

Sec. 16-27 Same -- Procedure for Cutting by Town.

If such tree branches, shrubs, vines or hedges have not been cut as provided in § 16-26 within ten (10) days from the date of mailing or posting of the notice provided for in §16-26, the Director of Parks and Recreation shall cause the cutting down by the Town's agent such tree branches, shrubs, vines or hedges.

Sec. 16-28 Same -- Costs of Cutting.

Where tree branches, shrubs, vines or hedges, have been cut down on property by the Director of Public Works pursuant to the provisions of §16-27, the cost of such cutting shall be billed to the owner of the property. If such bill is not paid prior to the issuance of the next real estate tax bill, it shall be added to that Town real estate tax bill on such property and shall be a lien on such property to the same extent and effect as the real estate tax.