

**THE CODE OF THE TOWN
OF
VIENNA, VIRGINIA**

**The Charter
and
The General Ordinances**

PUBLISHED BY ORDER OF THE TOWN COUNCIL

**Michie City Publications Company
Charlottesville, Virginia
1969**

Vienna Town Code

PREFACE

This volume, as originally published, constituted the first revision and codification of the general ordinances of the Town of Vienna, Virginia, since 1962. It contained the Charter and such of the ordinances of a general and permanent nature passed on or before February 1, 1969, as were found desirable for retention, except those expressly saved from repeal by the Adopting Ordinance.

As now supplemented, this volume contains all ordinances of a general and permanent nature adopted on or before December 31, 1969.

The ordinances were codified, edited and indexed by the Editorial Staff of Michie City Publications Company under the supervision of Chas. W. Sublett, Stephen C. Willard and John K. Haley.

The publishers wish to express their appreciation for the cooperation of all the town officials and employees during the preparation of this publication. Particular acknowledgment is due Mr. C. Clay Harrell, Town Manager, Mr. John F. Gionfriddo, Town Attorney, and Mrs. Loraine M. Hall, Town Clerk, for their assistance during the progress of the work.

A feature to which the attention of the user is directed is the arrangement of the chapters in alphabetical order. Attention is also directed to the analysis preceding each chapter which, in many instances, will serve as an index within itself. The general index, carried at the end of the Code, has been carefully prepared and should serve as an accurate medium for locating the individual sections of law within the Code. In the footnotes appearing throughout the Code will be found references to the Charter and the applicable and related provisions of the state law. These notes also contain cross references to other and related provisions in the Town Code. By reference to the historical citations, appearing at the end of each section, the user will be able to ascertain the ordinance from which the present section has been derived.

It is a recognized fact if any Code is to accomplish its intended purpose, it must be kept up to date by means of an adequate supplemental service. Accordingly, the publishers point out the advisability and necessity of keeping this Code current.

The new Town Code is presented to the officials and citizens of the Town of Vienna, Virginia, in the belief that it will merit their approval.

Michie City Publications Company
Charlottesville, Virginia

Supp. #1, 12-69

The Charter

ADOPTION OF CODE

An ordinance adopting a revision and codification of the ordinances of the Town of Vienna, Virginia, entitled "The Code of the Town of Vienna, Virginia," providing for the repeal of certain ordinances not included therein, with certain exceptions, and for other purposes hereinafter set out.

Be it ordained by the Town Council of the Town of Vienna, Virginia:

Section 1. There is hereby adopted by the Town that certain Code entitled "The Code of the Town of Vienna, Virginia", containing certain ordinances of a general and permanent nature as compiled, consolidated, codified and indexed in Chapters 1 to 18, both inclusive, of which Code not less than three copies have been and are now filed in the office of the Town Clerk.

Section 2. The provisions of such Code shall be in force on and after November 15, 1969, and all ordinances of a general and permanent nature adopted on final reading and passage on or before November 3, 1969, and not contained in such Code are hereby repealed from and after November 15, 1969, except as hereinafter provided.

Section 3. The repeal provided for in the preceding section of this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before November 15, 1969; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to November 15, 1969; nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money for the Town or authorizing the issue of any bonds of the Town or any evidence of the Town's indebtedness of any contract or obligation assumed by the Town; nor shall it affect the annual tax levy; nor shall it affect any right or franchise conferred by ordinance or resolution of the Town on any person or corporation; nor shall it affect any ordinance adopted for purposes which have been consummated; nor shall it affect any ordinance which is temporary, although general in effect, or special, although permanent in effect; nor shall it affect any ordinance relating to the salaries of the Town officers or employees; nor shall it affect any ordinance annexing territory to the Town; nor shall it affect any ordinance naming, renaming, opening, accepting or vacating streets or alleys in the Town; nor shall it affect any ordinance relating to zoning; nor shall it affect any ordinance adopted on final reading and passage after November 15, 1969.

Vienna Town Code

Section 4. Whenever in the Code adopted by this ordinance or in any other ordinance or resolution of the Town or in any rule, regulation or order promulgated by any officer or agency of the Town under authority duly vested in him or it any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided therefore, the violation of any such provision of such Code or any other ordinance or resolution of the Town or such rule, regulation or order shall be punished by a fine not exceeding one thousand dollars or imprisonment for a term not exceeding twelve months or by both such fine and imprisonment.

Except where otherwise provided, every day any violation of such Code or any other ordinance or resolution of the Town or such rule, regulation or order shall continue shall constitute a separate offense.

Section 5. It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance and the Code hereby adopted are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance or the Code hereby adopted shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance or the Code hereby adopted.

Passed and approved this third day of November, 1969.

/s/ James C. Martinelli
MAYOR

ATTEST:

/s/ Carmelita Dinterman
DEPUTY CLERK

Supp#1, 12-69

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THE CHARTER

Editor's note: The Charter contained herein derives from Chapter 432 of the 1964 Acts of the General Assembly, approved March 31, 1964, as amended. Amendments to the Charter are indicated by the citations following the amended section. Sections without citations derive unchanged from the original act.

Catchlines have been added and changed for editorial purposes. A uniform system of capitalization has been employed and a frontal analysis added for the convenience of the user.

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Chapter 1. Incorporation and Boundaries

Sec. 1.1 Incorporation. The inhabitants of the territory comprised within the present limits of the Town of Vienna, as such limitations are now, or may hereafter be altered and established by law, shall constitute and continue a body politic and corporate to be known and designated as the Town of Vienna, and as such shall have perpetual succession, may sue and be sued, implead and be impleaded, contract and be contracted with, and may have a corporate seal which it may alter, renew, or amend at its pleasure by proper ordinance.

Sec. 1.2 Boundaries. The territory embraced within the Town of Vienna is that territory in the County of Fairfax, Virginia, as established in Chapter 456 of the Acts of Assembly of 1956 as modified by the final order of the Circuit Court of Fairfax County, Virginia, recorded in the Common Law Order Book No. 39, page 99.

Chapter 2. Powers

Sec. 2.1 General Grant of Powers. The Town of Vienna shall have and may exercise all powers which are now or hereafter may be conferred upon or delegated to towns under the Constitution and laws of the Commonwealth of Virginia, as fully and completely as though such powers were specifically enumerated herein, and no enumeration of particular powers by this Charter shall be held to be exclusive, and shall have, exercise and enjoy all the rights, immunities, powers and privileges, and be subject to all the duties and obligations now appertaining to and incumbent on the Town as a municipal corporation.

The powers set forth in §§ 15.2-1100 through 15.2-1131, inclusive, of Chapter 11 of Title 15.2 of the Code of Virginia as now exist, and as hereafter amended, are hereby conferred on and vested in the Town of Vienna. (Amend. Acts of 1976, Chap. 481; Acts of 2002, Chap.594)

Chapter 3. Elections

Sec. 3.1 Election of Mayor and Councilmen; Composition of Town Council; Terms of Office of Office of Mayor and Councilmen.

The Town of Vienna shall be governed by Town Council composed of a Mayor and six Councilmen who shall be qualified electors of the Town and who shall be elected in the following manner:

(a) In the Town election to be held on the first Tuesday in May, nineteen hundred seventy-one, three Councilmen shall be elected for a term of one year and ten months, said term to begin on the first day of September, nineteen hundred seventy-one, and expire on the last day of June, nineteen hundred seventy-three.

(b) In the Town elections to be held the first Tuesday in May, nineteen hundred seventy-two, there shall be elected a Mayor and three Councilmen, all of whom shall serve for a term of two years, such term to begin on the first day of July, nineteen hundred seventy-two, and expire on the last day of June, nineteen hundred seventy-four.

(c) Beginning with the Town election held in nineteen hundred seventy-two, the term of office for both the Mayor and all Councilmen shall be two years and shall begin on the first day of July next following his or their elections (Acts 1971).

Sec. 3.2 Filling Vacancies on Council. Vacancies on Council shall be filled within forty-five days for the unexpired terms, by a majority vote of the remaining members; provided, however, that where a vacancy for councilmen shall occur more than eighteen months prior to expiration of the term, such vacancy shall be filled by a majority vote of the remaining members only until a successor shall have been chosen by the qualified electors of the Town in the next regularly scheduled Town election and shall have qualified as provided by law. Those candidates elected as councilmen by the greatest number of popular votes shall be deemed elected to serve full two-year terms of office. That councilman, or where more than one vacancy exists, those councilmen, elected by the next greatest number of popular votes shall be deemed elected to fill the said vacancy or vacancies and not a full two-year term. (Acts 1966, Ch. 113; Acts 1970, Ch. 320)

Sec. 3.3 Council to be Continuing Body. The Council shall be a continuing body, and no measures pending before such body, or any contract or obligation incurred, shall abate or be discontinued by reason of the expiration of the term of office or removal of any of its members.

Sec. 3.4 Conduct of Municipal Elections. (Amend. Acts 1973; Acts 2002, Chap. 594) Elections in the Town of Vienna shall be conducted pursuant to, and in accord with all applicable provisions of Title 24.2 of the Code of Virginia, except insofar as same are amended by subsections (a) and (b) of this section of the Charter.

(a) The Mayor shall issue to those elected certificates of election which shall be countersigned by the Town Clerk. Tie votes shall be decided by lot, and contests shall be tried and finally determined by a majority vote of all members of Council in office and serving at the time the contested election is held, provided that any member or members of the Council who are parties to any such contest shall not participate in the trial of or vote in the determination of the contest to which they are parties. (Acts 1966, Ch. 113; Acts 1968, Ch. 68, Acts 1973)

(b) Candidates for town offices shall not be identified on the ballot by political affiliation. (Acts 2002, Chap. 594)

Chapter 4. Mayor and Council

Sec. 4.1 General Grant of Power to Council. The Council shall have all powers and authority that are now or may hereafter be granted to councils of towns by the general laws of this state and by this act, and the recital of special powers and authorities herein shall not be taken to exclude the exercise of any power and authority granted by the general laws of this state to town councils, but not herein specified.

Sec. 4.2 Meetings.

The Council shall by ordinance fix the time of their stated meetings, and they shall meet at least once a month. Special meetings may be called at any time by the mayor or by four members of the council, provided, that all members are duly notified a reasonable period of time prior to such meetings, and no business shall be transacted at a special meeting thereof except that for which it shall be called unless all members of the council be present.

Sec. 4.3 Quorum; Reconsideration of Action.

Four members of the Council shall constitute a quorum for the transaction of business. No vote taken at any meeting shall be reconsidered or rescinded at any subsequent special meeting unless at such special meeting there be as many members of the Council present as were present when such vote was taken. (Acts 1966, Ch. 113; Acts 1968, Ch. 68)

Sec. 4.4 Powers and Duties of Mayor Generally.

The mayor shall preside over the meetings of the Council and shall have the same right to vote and speak therein as other members but shall not possess the power of veto. He shall be recognized as the head of the town government for all ceremonial purposes, the purpose of military law and the service of civil processes.

Sec. 4.5 Mayor Pro Tempore; Filling Vacancy in Office of Mayor.

In the case of the absence or inability of the mayor to act, the mayor pro tempore of the council, to be chosen by a majority of the council present at its organizational meeting following each election, shall possess the same powers, and discharge the same duties during such absence or inability.

In the event of the death or resignation of the mayor, the council shall, within forty-five days thereafter, choose, by majority vote, a mayor to serve for the unexpired term; provided, that when such death or resignation occurs more than eighteen months prior to expiration of the mayor's term of office, the replacement so chosen by the council shall serve only until a successor shall have been elected to fill the remainder of the mayor's unexpired term in the town election held on the first Tuesday in May next following the occurrence of such vacancy, and shall have qualified as provided by law. The term of office for the mayor so elected to fill the remainder of the unexpired term shall begin on the first of July next following his election. (Acts 1968, Ch. 68; Acts 1972, Ch. 42)

Sec. 4.6 Council to Fix Salaries Generally; Limitations on Salaries of Mayor and Councilmen.

The Council is hereby authorized to fix the salary of the Mayor, members of the Council, members of boards or commissions, and all appointed officers and employees of said Town, at a sum not to exceed any limitations placed by the laws and Constitution of the Commonwealth of Virginia. (Amend. Acts 1973; Acts 2002, Chap. 594)

Sec. 4.7 Appointive Officers.

The Council shall appoint a Town Manager, a Town Clerk, a Town Treasurer, Town Attorneys and a Town Sergeant, all of whom shall hold office at and during the pleasure of the Council, and shall execute such bonds as may be prescribed by resolution of the Council and shall perform such duties as are required by general law, as well as such additional duties not inconsistent with general law as this charter or the Council may prescribe; and the Council shall have power to fill any vacancy in any of such offices. Upon the failure of any Council to appoint such officers, all of such officers then in office shall so continue in office until removed by that or a succeeding Council. The same person may be appointed to fill two offices at the discretion of the Council except for Town Attorney and Town Sergeants. (Acts 1971; Acts 1976, Ch. 481)

Sec. 4.8 Town Clerk.

The Clerk shall be the Clerk of the Council and shall keep the journal of its proceedings and shall record all ordinances and resolutions in a book or books kept for the purpose. He shall be the custodian of the corporate seal of the Town and shall be the officer authorized to use and authenticate it. He shall perform such other duties and keep such other records as the Council or the general laws of the State require of Town Clerks. All records in his office shall be public records and open to inspection at any time during regular business hours. (Amend. Acts 2002; Chap. 594)

Chapter 5. Town ManagerSec. 5.1 Qualifications; Powers and Duties.

The Town Manager shall be chosen solely on the basis of his executive and administrative qualifications, with special reference to his actual experience in or knowledge of accepted practice in respect to the duties of his office. At the time of his appointment, and for the six months next following his appointment, he need not be domiciled in the Town or the Commonwealth. Thereafter and during his remaining tenure of office he shall be a domiciliary of the Town. The Town Manager shall be the chief administrative officer and head of the administrative branch of the Town government. He shall execute the laws and ordinances and administer the government of the Town and be responsible therefor to the Council. He shall: (Amend. Acts 2002, Chap. 594)

(1) Except with respect to § 4.7 above, appoint all directors, or heads of the administrative departments, and all other administrative officers and employees of the Town;

(2) When deemed necessary and in accordance with policies approved by the Council, suspend, demote or remove all such directors or heads and all other administrative officers and employees of the Town appointed by him except as he may authorize the head of a department, an officer or an agency to exercise such powers respecting subordinates in such department, office or agency;

(3) Supervise and control, directly or indirectly, all administrative departments, agencies, officers and employees of the Town; and when directed by the Council he shall examine the records and books of the office of Treasurer;

(4) Prepare a budget annually and submit it to the Council, be responsible for the administration of the budget after it goes into effect, and recommend to the Council any changes in the budget which he deems desirable;

(5) Submit to the Council a complete report as of the end of the fiscal year on the finances and administrative activities of the Town for the preceding year;

(6) Keep the Council advised of the financial condition and future needs of the Town, and make such recommendations on matters of policy and other matters to the Council as may seem to him desirable;

(7) Have power, whenever the interests of the Town require, to assign employees of any department, bureau, office or agency, to the temporary performance of duties in another department, bureau, office or agency;

(8) Have such other powers and duties consistent with the Town Charter as the Council may prescribe.

Chapter 6. Fiscal and Administrative AuthoritySec. 6.1 Fiscal Control; Establishment, Operation, Etc., of Water System, Sewer System, Etc.

The Council shall have the power to control and manage the fiscal and municipal affairs of the Town and all property, real and personal, belonging to said Town, and to make such ordinances, orders and resolutions relating to the same as it may deem necessary. After the close of each fiscal year, the Council shall cause to be made an independent audit of the accounts, books, records and financial transactions of the Town by the Auditor of Public Accounts of the Commonwealth or by a firm of independent certified public accountants to be selected by the Council. The report of such audit shall be filed within such time as the Council shall specify and one copy thereof shall always be available for public inspection in the office of the Clerk to the Council during regular business hours. The Council shall have the further power to purchase, hold, sell and convey all real and personal property, within or without the corporate limits, necessary for its use and purposes.

(a) The Council shall have power and authority to acquire, or otherwise obtain control of or establish, maintain, operate, extend and enlarge waterworks, sewage disposal plants, gasworks, electric plants, and other public utilities within or without the limits of the Town; to acquire within or without the limits of the Town by purchase, condemnation, but insofar as such power of condemnation is exercised as to lands of a public service corporation, § 25-233 shall be applicable, or otherwise, whatever land may be necessary for acquiring, locating, establishing, maintaining, operating, extending and enlarging said waterworks, sewage disposal plants, electric plants and other utilities, and the rights-of-way, rails, pipes, poles, conduits and wires connected therewith or any of the fixtures or appurtenances thereof; and promulgate and enforce reasonable rates, rules and regulations for use of same, any or all of which rates, rules and regulations the Council may alter at any time without notice.

(b) In the event the fees, rents, or charges charged for the use and services of the public water system or sewage disposal system by, or in connection with any real estate, shall not be paid when due, interest shall at the time begin to accrue thereon at the rate of one per cent per month. Such fees, rents, charges and the interest due thereon shall constitute a lien, which shall rank on a parity with liens for unpaid Town or County taxes, against the property, which lien may be indexed and filed among the Judgment Records of the Circuit Court of Fairfax County, the cost of such filing to be included in the total amount of such lien. Such fees, rents, charges and the interest due thereon also may be recovered by the Town of Vienna by action at law, or suit in equity.

(c) The Council shall have the power and authority to require the owners or occupants of the real estate within the corporate limits of the Town which may front or abut on the line of any sewer or water pipe line or conduit to make connections therewith, and to use such sewer pipes and conduits and water furnished by the Town under such ordinances and regulations as the Council may deem necessary to secure the proper service thereof and to improve and secure good sanitary conditions; and shall have the power to enforce the observance of all such ordinances and regulations by the imposition and collection of fines and penalties, to be collected as other fines and penalties under the provisions of this act. (Acts 1966, Ch. 113; Acts 1968, Ch. 68; Acts 1970, Ch. 320)

Sec. 6.2 Authority of Council to Contract Loans Generally, Issue Notes, Bonds, Etc.

The Council, within the limits of the Constitution of this State and in accordance with the provisions of the general laws thereof, may, in the name of, and for the use of the Town, contract loans or cause to be issued certificates of debt, notes or bonds.

Sec. 6.3 Authority of Council to Negotiate Temporary Loans. (Amend. 1974)

The Council shall have the power to negotiate temporary loans, in anticipation of taxes, for the purpose of paying current expenses of the Town; such loans to be evidenced by bonds or notes bearing interest at a rate permitted by general law for towns; such bonds or notes shall be payable within one year from the date of issue out of the current revenue of the year in which same are issued. No such temporary loan shall in the aggregate exceed seventy-five percent of the previous year's income.

The Council shall also have the power to issue notes to raise capital in anticipation of a bond issue, which notes shall be paid within five years from the date of issuance thereof. In the issuance of bonds and notes, the Town shall be subject to the limitations as to amount contained in § 10 (a) of Article VII of the Constitution of the Commonwealth of Virginia only. (Acts 1970, Ch. 320; Acts 1971; Acts 1974; Ch. 209)

Sec. 6.4 Sinking Fund.

There shall be set apart annually from the revenues of the Town a sinking fund sufficient in amount to pay the outstanding indebtedness of the Town, as it matures, which by its terms, is payable in not less than one year, and the council may, in its discretion annually from time to time, set aside such additional sinking fund as may be deemed proper, and invest all of the sinking fund as hereinafter set forth.

(a) All sinking funds shall be used exclusively in the payment or purchase and redemption of the outstanding bonds of the Town, and when such sinking funds are not required or may not within a reasonable time be required for payment of any bond of the Town, or cannot be used to advantage in the purchase and redemption of any bonds of the Town which may be outstanding, the same shall be securely invested in interest bearing municipal, state or United States government bonds, or invested in any securities approved by the general laws of the state for the investment of such funds, or deposited in a bank on a reasonable rate of interest. Such sinking fund may be used in the payment or purchase and redemption of all bonds of the Town at the discretion of the Council.

Sec. 6.5 Signing and Sealing of Bonds.

All bonds and other evidences of indebtedness of the Town shall be signed by the Mayor and countersigned by the Town Clerk; and to all bonds the Clerk of the Town shall affix the corporate seal of the Town and attest the same.

Chapter 7. TaxationSec. 7.1 Authority of Town to Tax

The Town is empowered to levy and collect taxes on all subjects of taxation, except as restrained by the Constitution or by general law heretofore or hereafter adopted, provided that it shall impose no taxes on the bonds of the said Town; and provided further, that such levy shall not be increased beyond the rate of two dollars on the one hundred dollar assessed valuation of real and personal property (except as permitted by state law for increases beyond charter limitations) without the affirmative vote of the majority of citizens voting as determined by a referendum held for this purpose.

Sec. 7.2 Assessment of Real and Personal Property

The assessment of real and personal property in the Town for the purpose of municipal taxation shall be the same as the assessment for the purpose of county taxation; but where the Treasurer for the Town knows of property that has been omitted by the Commissioner of Revenue of the County from his books, the Treasurer of the Town may by the same proceedings as are provided for County Commissioners of Revenue in similar cases assess such omitted property, real or personal, for Town taxation.

(a) Where the Treasurer for the Town knows of property that has been erroneously assessed in the Town of Vienna by the Commissioner of Revenue of the County of Fairfax from his books, the Treasurer of the Town may by the same proceedings as are provided for County Commissioners of Revenue in similar cases release such erroneous assessments from the Town of Vienna tax rolls.

Chapter 8. Reserved
Acts 1976, Chapter 481

Chapter 8-A. Property for Roadway or Other Public Purposes (Acts 1972, Ch. 42)Sec. 8-A.1 Gift, Bequest, Purchase or Lease; Ownership and Use of Property .

The Town shall have for the purpose of carrying out any of its powers and duties in the construction or reconstruction of roadways and streets, or for other public purposes, power to acquire by gift, bequest, purchase or lease, and to own and make use of within the Town lands, buildings, other structures and personal property including any interest, right, easement or estate therein, and in acquiring such property to exercise, within the Town, the right of eminent domain as hereinafter provided in this chapter. (Acts 1971)

Sec. 8-A.2 Eminent Domain Generally.

The Town is hereby authorized to acquire by condemnation proceedings lands, buildings, structures and personal property or any interest, right, easement or estate therein of any person or corporation, whenever in the opinion of the council a public necessity exists therefore, which shall be expressed in the resolution or ordinance directing such acquisition, and whenever the Town cannot agree on terms of purchase or settlement with the owners of the subject of such acquisition because of the incapacity of such owner, or because of the inability to agree on the compensation to be paid or other terms of settlement or purchase, or because the owner or some one of the owners is a nonresident of the state or cannot with reasonable diligence be found in the state or is unknown.

Such proceedings shall be instituted in the Circuit Court of Fairfax County. The provisions of § 25-233 of the Code of Virginia shall apply as to any property owned by a corporation possessing the power of eminent domain that may be sought to be taken by condemnation under the provisions of this act. (Acts 1966, Ch. 113)

Sec. 8-A.3 Alternative Procedures in Condemnation.

The Town may, in exercising the right of eminent domain conferred by the preceding section, make use of the procedure prescribed by the general law or may elect to proceed as hereinafter provided. In the later event, the resolution or ordinance directing the acquisition of any property as set forth in the preceding section shall provide therein in a lump sum the total funds necessary to compensate the owners thereof for such property to be acquired or damaged, the amount of such sum to be determined by two competent impartial appraisers. Upon the adoption of such resolution or ordinance, the Town shall file a petition in the Clerk's office of the Circuit Court of Fairfax County which shall be signed by the Town Manager and set forth the interest or estate to be taken in the property and the uses and purposes for which the property or the interest or estate therein is wanted or when property is not to be taken but is likely to be damaged, the necessity for the work or improvement which will cause or is likely to cause such damage.

There shall also be filed with the petition a plat of a survey of the property with a profile showing cuts and fills, trestles and bridges, or other contemplated structures, if any, and a description of the property which, or an interest or estate in which, is sought to be taken or likely to be damaged and a memorandum showing names and residences of the owners of the property, if known, and showing also the quantity of property which, or an interest or estate in which, is sought to be taken or which will be or is likely to be damaged. There shall be filed also with said petition a notice directed to the owners of the property, if known, copies of which shall be served on such owners or tenants of the freehold of such property, if known. If the owner or tenant of the freehold be unknown or a nonresident of the State or cannot with reasonable diligence be found in the State, or if the residence of the owner or tenant be unknown, he may be proceeded against by order of publication which order, however, need not be published more than once a week for two successive weeks and shall be posted at a main entrance to the courthouse. The publication shall in all other respects conform to §§ 8-71, 8-72 and 8-76 of the Code of Virginia.

Upon the filing of said petition and the deposit of the funds provided by the Council for the purpose with the Clerk of the Court in such proceedings and the filing of a certificate of deposit therefore, the interest or estate of the owner of such property shall terminate and the title to such property or the interest or estate to be taken in such property shall be vested absolutely in the Town, and such owner shall have such interest or estate in the funds so deposited as he had in the property taken or damaged and all liens by deed of trust, judgment, or otherwise, upon said property or estate shall be transferred to such funds and the Town shall have the right to enter upon and take possession of such property for its uses and purposes and to construct its works and improvements. The clerk of the court shall make and certify a copy of the petition, exhibits filed therewith, and orders, and record the same in his deed book and index them in the name of the person or persons who had the property before and in the name of the Town, for which he shall receive the same fees prescribed for recording a deed which shall be paid by the Town.

If the Town and the owner of the property so taken or damaged agree upon compensation therefore, upon filing such agreement in writing in the Clerk's office of such court, the court or judge thereof in vacation shall make such distribution of such funds as to it may seem right, having due regard to the interest of all persons therein whether such interest be vested, contingent or otherwise; and to enable the court or judge to make a proper distribution of such money, it may in its discretion direct inquiries to be taken by a special commissioner in order to ascertain what persons are entitled to such funds and in what proportions and may direct what notice shall be given of the making of such inquiries by such special commissioner.

If the Town and the owner cannot agree upon the compensation for the property taken or damaged, if any, upon the filing of a memorandum in the Clerk's office of said court to that effect signed by either the Town or the owner, the court shall appoint commissioners provided for in § 25-46.20 of the Code of Virginia, as amended, and all proceedings thereafter shall be had as provided in §§ 25-46.17 to 25-46.34, inclusive, of the Code of Virginia, as amended, insofar as they are then applicable and are not inconsistent with the provisions of this and the preceding section, and the court shall order the deposit in bank to the credit of the court of such additional funds as appear to be necessary to cover the award of the commissioners or shall order the return to the Town of such funds deposited that are not necessary to compensate such owners for property taken or damaged. The commissioners so appointed shall not consider improvements placed upon the property by the Town subsequent to its taking, nor the value thereof, nor the enhancement of the value of said property by said improvements in making their award. (Acts 1966, Ch.113)

Sec. 8-A.4 Consideration of Enhancement in Value of Remaining Property.

In all cases hereunder, the enhancement, if any, in value of the remaining property of the owner by reason of the construction or improvement contemplated or made by the Town shall be offset against the damage, if any, resulting to such remaining property of such owner by reason of such construction or improvement, provided such enhancement in value shall not be offset against the value of the property taken, and provided further, that if such enhancement in value shall exceed the damage, there shall be no recovery over against the owner for such excess. (Acts 1966, Ch. 113)

Sec. 8-A.5 Unclaimed Funds in Condemnation Cases.

Whenever any money shall have remained for five years in the custody or under the control of the court enumerated in § 8-A.2, in any condemnation proceeding instituted therein by the Town, without any claim having been asserted thereto, such court shall, where the amount is one hundred dollars or more, cause a publication to be made once a week for two successive weeks in a newspaper of general circulation published in the Town, setting forth the amount of such money, the source from which it was derived and the proceeding in which it is held, and requiring all persons having any claim to said money to appear before said court within such time after the completion of the publication as the court may prescribe, and establish their claim. If the sum be less than one hundred dollars, the court shall direct the same to be paid into the treasury of the Town, and a proper receipt for the payment taken and filed among the records of the proceeding. If no person shall appear and show title in himself, the court shall order the money, after deducting there from the costs of such publication if such publication is made, and any other proper charges, to be paid into the treasury of the Town and a proper receipt for the payment to be taken and filed among the records of the proceeding.

The Director of Finance shall, in a book provided for the purpose, keep an account of all money thus paid into the Town treasury showing the amount thereof, when, by whom, and under what order it was paid and the name of the court; and as far as practicable, a description of the suit or proceeding in which the order was made and, as far as known, the names of the parties entitled to said funds. Money thus paid into the treasury of the Town shall be paid out on the order of the court having jurisdiction of the proceeding to any person entitled thereto who had not asserted a claim therefore in the proceeding in which it was held upon satisfactory proof that he is entitled to such money. If such claim be established, the net amount thereof, after deducting costs and other charges, shall be paid to the claimant out of the treasury of the Town on the warrant of the Director of Finance. No claim to such money shall be asserted after ten years from the time when such court obtained control thereof; provided, however, if the person having such claim was an infant, insane, or imprisoned at the time the claim might have been presented or asserted by such person, claim to such money may be asserted within five years after the removal of such disability. (Acts 1966, Ch. 113)

Sec. 8-A.6 Sale of Town Property

No rights of the Town in and to its public lands, streets, avenues, parks, bridges or other public places, or its water works, shall be sold except by an ordinance or resolution passed by a recorded affirmative vote of three-fourths of all members of the Town Council, and in accordance with all other provisions of Section 9, Article VII, of the Constitution of Virginia. (Acts 1971)

Chapter 8-B Architectural Control DistrictsSec. 8-B.1 Authority of Town Council to Designate.

In order to protect and promote the general welfare, and to prevent deterioration of the appearance of the Town which would tend to create hazards to public health, safety and morals and destroy opportunity for the development of business and industry, the Town Council may designate, within any land areas except those zoned for single family, detached residential use, architectural control districts in which no structure shall be erected, reconstructed, altered or restored until approved by a board of architectural review.

Provided, that any lot, parcel or area of land which is used for other than single family, detached residences, or which is the subject of an application for a use permit or building permit involving any such other use, may be designated as an architectural control district without regard to its zoning classification. (Acts 1971)

Sec. 8-B.2 Board of Architectural Review -- Authority to Create; Composition; Appointment; Qualifications and Terms of Office of Members; Powers and Duties; Appeals from Actions.

The Council may create a Board of Architectural Review. The Board shall consist of five members appointed by majority vote of the Council for terms not to exceed three years. At least one member of the Board shall be an architect registered in Virginia and at least one shall be a member of the Virginia State Bar. All members of the Board shall be residents of the Town of Vienna except one architect member who may, or may not, be a resident of the Town of Vienna. In the event that the one architect member shall not be a resident of the Town of Vienna, his appointment shall be for a period of one year. The Council shall prepare and publish appropriate standards, rules, regulations and procedures for the operation of the Board and to carry out the purposes and objectives herein set forth; provided, that the Council shall not adopt as part of any such standards a specific architectural style; it shall provide for appeals to the Town Council from any final decision of the Board, which appeal shall stay the Board's decision pending the outcome of the appeal before the Council. The Council, on appeal, shall apply the same standards as those established for the Board and may affirm, reverse, or modify the decision of the Board, in whole or in part. Parties aggrieved by the decision of the Town Council shall have the right to appeal to the Circuit Court of Fairfax County for review by filing a petition at law, setting forth the alleged illegality of the Town Council's action, provided such petition is filed within thirty days after the final decision is rendered by the Town Council. The filing of the said petition shall stay the Council's decision pending the outcome of the appeal to the court. The court may reverse or modify the decision of the Council in whole or in part if it finds upon review that the decision of the Council is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the Council.

(Acts 1966, Ch. 113; Acts 1968, Ch. 68)

Sec. 8-B.3 Same -- Purposes

The purpose of the Board shall be to assure that all buildings, signs, landscaping and other external improvements erected in the designated architectural control districts conform to accepted architectural standards for permanent improvements, as contrasted with engineering standards designed to satisfy safety requirements only. Such improvements shall exhibit external characteristics as to material, texture, color, lighting, dimensions, line and mass of demonstrated architectural and aesthetic durability. The Board shall not authorize in such districts improvements of extremely unusual design, improvements where the characteristics are designed to serve as advertisements or commercial displays or improvements which in terms of material, texture, color, dimension, lighting, line or mass exhibit characteristics likely to deteriorate rapidly or be of short term architectural or aesthetic acceptability, be plainly offensive to human sensibilities or otherwise constitute a reasonably foreseeable detriment to the community. (An emergency existing, this act is in force from its passage.) (Acts 1966, Ch. 113; Acts 1977, Ch. 199)

Chapter 9. MiscellaneousSec. 9.1 Continuation of Existing Ordinances

All ordinances now in force in the Town of Vienna, not inconsistent with this act, shall be and remain in force until altered, amended or repealed by the Council.

Sec. 9.1.1 Final Passage of Ordinances

- (a) The object of every proposed ordinance shall be expressed in its title and no ordinance except an emergency ordinance shall be passed until after a notice of intention to propose the same for passage shall have been published once a week for two successive weeks prior to its passage in some newspaper published in the county; and no such ordinance shall become effective until ten days after it shall have been published in full or by its title and an informative summary of such ordinance in a like newspaper. If such publication is by title and informative summary, the publication shall include a statement that a copy of the full text of the ordinance is on file in the office of the Town Clerk. The provisions of this section governing publication shall not apply, however, to any ordinance enacted pursuant to a State statute where such statute specifically provides the manner of publication.
- (b) On final vote on any ordinance or resolution, the name of each member of Council voting and how he voted shall be recorded.
- (c) No ordinance or resolution appropriating funds exceeding the sum of five hundred dollars, imposing taxes, or authorizing the borrowing of money shall be passed except by a recorded affirmative vote of a majority of all members elected to the Council. (Acts 1971)

Sec. 9.1.2 Emergency Ordinances

Any ordinance passed as an emergency shall require a two-thirds vote of all the Council, and shall be void and of no effect at the expiration of sixty days from the date of adoption unless sooner repealed or reenacted as provided in § 9.1.1 hereof.

Sec. 9.2 Continuation of Present Officers in Office

The present elected officers of the Town shall be and remain in office until expiration of their several terms, and until their successors have been duly elected and qualified.

Sec. 9.3 Eligibility of United States Government Employees to be Town Officers, Employees, Etc.

No person otherwise eligible shall be disqualified, by reason of his accepting or holding an office, post, trust or emolument under the United States government, from serving as an officer or employee of the Town, or as a member, officer, or employee of any board or commission.

Sec. 9.4 Authority to License Dogs, Appoint Dog Warden, Establish Pound, Etc.
(Acts 1978, Ch. 577, Approved April 5, 1978)

Notwithstanding any other provision of law, the Town Council shall have power to impose and collect a dog license tax and such tax shall be the only license tax on dogs required of residents within the Town. The dog license tax shall be collected by the Director of Finance. The Town Council may appoint a dog warden for the Town and such deputy wardens as may be required. Such warden and deputy wardens shall have authority to enforce all dog laws within the Town. The Town may provide facilities for the capture and confinement and disposition of unlicensed dogs or dogs owned, kept or harbored in violation of the dog laws. The Town Council may enact local ordinances corresponding in nature and scope and not in conflict with the provisions of Chapter 9.2 of Title 29 of the Code of Virginia, and may repeal, modify or amend such ordinances provided that no penalty imposed by such ordinance shall be greater than the penalty imposed for a similar offense under Chapter 9.2 of Title 29 of the Code of Virginia. The Director of Finance of the Town shall not be required to remit any portion of the funds collected from the licensing of dogs to the State Treasurer. (An emergency existing, this ordinance is in force from its passage.)

Sec. 9.5 Authority to Permit Use of Sidewalks for Bicycle Riding¹

Notwithstanding any other provision of law, the Town Council may authorize children under fifteen years of age to ride bicycles upon the sidewalks in areas of the Town prescribed by Council and to regulate the riding of bicycles thereon in such manner as the Council may deem to be in the public interest. (Acts 1973)

Sec. 9.6 Authority to Establish Historic Districts

Notwithstanding any other provision of law, the Town Council may establish one or more historic districts for the purpose of promoting the general welfare, education and recreational pleasure of the public through the perpetuation of these general areas or individual structures and premises which have been officially designated by the Town Council as having historic or architectural significance. The establishment of historic districts shall be by amendment of the zoning ordinance and consistent with the purposes, criteria and procedures set forth in § 15.1-503.2 of the Code of Virginia. (Acts 1974, Ch. 209)

¹ For State law, see Code of Va., § 46.1-229, as amended