
Sec. 7. Powers with respect to streets and traffic.

The town shall have power to establish, enter, open, widen, extend, grade, construct, maintain, light, sprinkle or clean public streets, highways, alleys, parkways or parks or to alter or close the same; to regulate the weight of loads to be hauled or carried over or upon the streets; to regulate the use of all such highways, parks, streets, alleys, parkways and public places; to prevent the obstruction, destruction or injury to any of such streets, alleys or highways; to require any railroad company operating a railroad at the place where any highway or street is crossed within the limits of the town to erect and maintain at such crossing any style of gate deemed proper, and keep a man in charge thereof, or keep a flagman at such crossing during such hours as the council may require in accordance with the general law[s] of the state and to regulate the length of time such crossing may be closed due to any operation of the railroad; to regulate the operation and speed of all cars, motorcycles, bicycles or vehicles upon said streets or highways as well as the speed of all engines, cars, or railroad trains within the town; to permit or prohibit poles or wires for electric, telephone or telegraph purposes to be erected or gas lines or water mains to be held in the streets or alleys, and to prescribe and collect an annual charge for such privileges hereafter granted; to require the owner or lessee of any electric light, telephone or telegraph pole or poles now in use or hereafter erected to change the location or remove the same.

Editor's note(s)—Railroad speeds are controlled by the Federal Railroad Safety Act (45 USC 421 et seq.).

Chapter 70 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES¹

ARTICLE I. IN GENERAL

Sec. 70-1. Certain ordinances relating to streets not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance opening, accepting, vacating, naming or renaming any street or alley in the town or providing for the improvement thereof; and all

¹Charter reference(s)—General authority of town relative to streets, §§ 7, 20(b).

Cross reference(s)—Miscellaneous ordinances not affected by Code, § 1-8; any ordinance authorizing, providing for or otherwise relating to any public improvement or assessments for such improvements saved from repeal, § 1-8(5); administration, ch. 2; standing committees of council, § 2-37; advertising, ch. 6; permit to display advertising matter on utility poles or across street, § 6-2; amusements and entertainments, ch. 14; abandoning domesticated animal in public place or on property of another, § 18-6; buildings and building regulations, ch. 22; dining on public sidewalks, § 26-286 et seq.; civil emergencies, ch. 30; environment, ch. 38; starting fires on streets, open lots, § 42-3; disorderly conduct in public places, § 50-7; profane swearing and intoxication on public; penalty; transportation of public inebriates to detoxification center, § 50-8; obstructing free passage of others, § 50-13; carrying loaded firearm in public place, § 50-103; throwing stones or other missiles in streets, § 50-105; peddlers and solicitors, ch. 54; personnel, ch. 58; traffic and vehicles, ch. 78; riding bicycles or skateboards on sidewalks, § 78-16; utilities, ch. 82; vegetation, ch. 86; clearance between sidewalk or street and overhanging shrubs or trees, § 86-3; waterways, ch. 90; zoning, app. A; subdivisions, app. B.

State law reference(s)—Streets, alleys, sidewalks, etc., generally, Code of Virginia, § 15.2-2000 et seq.; limited access streets in cities and towns, Code of Virginia, § 15.2-2026; official map, Code of Virginia, § 15.2-2233 et seq.; local authority over highways, Code of Virginia, § 33.1-224 et seq.; pipelines and other works in streets, roads, alleys, etc., Code of Virginia, § 56-257 et seq.

such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

(Code 1982, § 18-1)

Sec. 70-2. Official names of streets and alleys.

- (a) The names of the streets and alleys, as shown on the official street name map approved by the town council on March 6, 1962, and as amended and supplemented, are hereby declared to be the official names of the public streets and alleys of this town unless changed by the town council. All streets and alleys not shown on such map shall be named in accord with the town's subdivision ordinance.
- (b) Upon application to the town and after public hearings by the planning commission and the town council, with the same notice as required for zoning changes as provided for in Code of Virginia, § 15.2-2204, the town council may, in its discretion, change the official name of a street or alley.
- (c) Any person or persons applying to the town to change the official name of a street or alley shall pay to the town treasurer, at the time the application is filed, an administrative fee in the sum of \$200.00.

(Code 1982, § 18-2; Ord. of 9-4-1990, § 18-2)

Cross reference(s)—Subdivisions, app. B.

Sec. 70-3. Prerequisites to maintenance of streets by town.

No street opened in this town shall be deemed a public street and subject to maintenance by the town unless it shall be established, opened and constructed in accordance with the following conditions:

- (1) It must be dedicated for use as a public street without reservation or restrictions.
- (2) It must conform to all statutory provisions in force governing the width of public streets in a town the size of Smithfield.
- (3) It must be constructed in strict accordance with the regulations and specifications of the state department of transportation governing the construction of streets in subdivisions and the provisions of the town's subdivision ordinance.

(Code 1982, § 18-3)

Sec. 70-4. Permit for work on streets.

No person shall perform any work on a dedicated street within the town without a permit from the town manager. A violation of this section shall constitute a class 1 misdemeanor.

(Code 1982, § 18-4)

Sec. 70-5. Throwing or depositing certain substances upon highway; removal of such substances.

- (a) No person shall throw or deposit or cause to be deposited upon any highway any glass bottle, glass, nail, tack, wire, can, or any other substance likely to injure any person or animal, or damage any vehicle upon such highway, nor shall any person throw or deposit or cause to be deposited upon any highway any soil, sand, mud, gravel or other substances so as to create a hazard to the traveling public.

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- (b) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive, hazardous or injurious material shall immediately remove the same or cause it to be removed. Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.
 - (c) Any persons violating the provisions of this section shall be guilty of a class 1 misdemeanor.
 - (d) This section shall not apply to the use, by a law enforcement officer while in the discharge of official duties, of any device designed to deflate tires. The division of purchase and supply shall, pursuant to Code of Virginia, § 2.2-1112, set minimum standards for such devices and shall give notice of such standards to law enforcement offices in the commonwealth. No such device shall be used which does not meet or exceed the standards.

(Code 1982, § 18-5)

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-324.

Sec. 70-6. Barriers or signs on street or sidewalk.

- (a) No person, including agents or employees of public utilities and town departments, shall erect or place any barrier or sign on any street or sidewalk in the town unless first authorized by the chief of police or the town manager.
- (b) It shall be unlawful for any person to disobey the instructions of any barrier or sign placed on any street or sidewalk, when the type of the barrier or sign has been approved by the town manager and the same has been erected pursuant to authority from the chief of police or the town manager.
- (c) A violation of this section shall constitute a class 4 misdemeanor.

(Code 1982, § 18-6)

Sec. 70-7. Surface drainage on sidewalks.

- (a) Whenever storm sewers, curbs and gutters, natural drainage or other sufficient means of providing for the drainage of surface water are available, it shall be unlawful for the owner of any real estate situate in the town to cause or permit any such surface water to discharge or drain over, across or upon the surface of any sidewalk in the town. In the case of new construction or reconstruction, the owner shall cause to be installed sufficient facilities to dispose of all surface water under any existing sidewalk. Plans and specifications for drainage shall be submitted for approval with the application for a building or zoning permit.
- (b) Any violation of this section shall constitute a class 4 misdemeanor, and each day's violation shall constitute a separate offense.

(Code 1982, § 18-7)

Secs. 70-8—70-40. Reserved.

ARTICLE II. ENCROACHMENTS²

Sec. 70-41. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Encroachment means an awning, fire escape, shutter, sign, cornice, gutter, downspout, bay window or other appendage to or part of a building existing or to be constructed in, under, upon or over a street or other property of the town.

Other property means any land owned by the town or on which the town has an exclusive easement.

Owner means the person or persons holding legal title to a building, construction or the land upon which it is situated, either or both.

Street means every public way or place of whatever nature in the town, including alley, road, highway or sidewalk.

(Code 1982, § 18-15)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 70-42. Existing encroachments or obstructions.

Every encroachment or obstruction existing prior to November 7, 1989, is conclusively presumed to have been constructed under authority of a revocable permit, which may be revoked at the pleasure of the town council or the general assembly of the commonwealth. Nothing contained in this section shall be construed to relieve the owners of negligence on their part on account of any such encroachment.

(Code 1982, § 18-16)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-2011.

Sec. 70-43. Permit required for construction of any obstruction or encroachment.

- (a) The town manager may, with the approval of the town council, grant an encroachment permit, which encroachment permit shall be only for improvements and alterations to existing structures which will not materially or unreasonably interfere with the use of any street or other property of the town by the town or the public or constitute a hazard on such street or other property, upon the following conditions:
- (1) The request for such permit shall be submitted in writing on a form approved by the town manager and signed by the applicant.

²State law reference(s)—Existing encroachments, Code of Virginia, §§ 15.2-2011, 15.2-2012; prevention of encroachments, Code of Virginia, § 15.2-2009.

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- (2) The application shall have attached a copy of a plat showing the exact location and extent of the encroachment or obstruction.
- (3) The application shall contain a statement that the owner for himself, his administrators, executors, heirs, devisees, successors and assigns shall keep and hold the town free and harmless from any and all liability on account of any injury to any person or persons or damage to any property or properties growing out of or directly or indirectly resulting from such encroachment or obstruction and the construction, maintenance, operation or removal thereof; and in the event that any suit or proceeding shall be brought against the town, at law or in equity, either independently or jointly with others on account thereof, the applicant will defend the town in any such suit or proceeding at the cost of the applicant; and in the event of a financial judgment or decree being obtained against the town either independently or jointly with others, then the owner will pay such judgment or expenses of whatsoever nature and hold the town harmless therefrom. The application shall also contain a statement that the encroachment or obstruction will be permitted subject to all provisions and conditions contained in the Code of Virginia, the Charter of the town or any ordinance or regulation of the town.
- (b) The application shall also state that the applicant will accept the permit, if issued, with the knowledge that it is revocable at the pleasure of the town council or its designee and that, upon revocation, the encroachment or obstruction will be promptly removed by the owner of the property; and upon the owner's failure to do so, the town may remove the same without liability to the owner for damages and with the right to recover from the owner all costs incurred by the town in the removal of the same.

(Code 1982, § 18-17)

Sec. 70-44. Permit processing fee.

A nonrefundable processing fee of \$25.00 shall accompany each application under this article to cover the cost of processing the application.

(Code 1982, § 18-18)

Sec. 70-45. Approval of town council.

Whenever an application for a permit, as provided in this article, is received by the town manager, he shall determine whether or not the provisions of this article respecting the same have been complied with and shall make known his findings to the town council, along with his recommendation, whereupon the town council shall consider the same and whether or not the granting of the permit is in the public interest and direct the town manager to either issue the permit or deny the same.

(Code 1982, § 18-19)

Sec. 70-46. Violations; penalty.

It shall be unlawful and shall constitute a misdemeanor for any person to cause an encroachment or obstruction to exist on any street or other property of the town except as permitted by law. Any person violating this section shall be subject to a fine of not less than \$50.00, nor more than \$250.00, and each day of the existence of such encroachment or obstruction shall constitute a separate offense.

(Code 1982, § 18-20)

Sec. 70-47. Permit required for encroachment in right-of-way, sidewalk or other public property.

- (a) The town council or its designee may grant an encroachment permit, which encroachment permit shall only be for improvements and alterations to existing or proposed structures, A-frame signs that will not materially or unreasonably interfere with the use of any street, sidewalk or other public property of the town, by the town or the public or constitute a hazard on such street, sidewalk or other public property, upon the following conditions. Encroachment permits for A-frame signs (sandwich board signs) shall be limited to the D, downtown, HR-C, highway retail commercial, PS-C, planned shopping center, R-O, residential office, I-1, light industrial and I-2, heavy industrial districts.
- (1) The request for such permit shall be submitted in writing on a form approved by the town manager and signed by the applicant.
 - (2) The application shall have attached a copy of a plat showing the exact location and extent of the encroachment or obstruction.
 - (3) The application shall contain a statement that the owner for himself, his administrators, executors, heirs, devisees, successors and assigns shall keep and hold the town free and harmless from any and all liability on account of any injury to any person or damage to any property growing out of or directly or indirectly resulting from such encroachment or obstruction and their construction, maintenance, operation, placement or removal; and if any suit or proceeding shall be brought against the town, as law or in equity, either independently or jointly with others, the applicant will defend the town in any such suit or proceeding at the cost of the applicant. In the event of a financial judgment or decree being obtained against the town, either independently or jointly with others, the owner will pay such judgment or comply with such decree, together with all costs and expenses of whatsoever nature and hold the town harmless. The application shall also contain a statement that the encroachment or obstruction will be permitted subject to all provisions contained in the Code of Virginia, the Town Charter or any ordinance, code or regulation of the town.
 - (4) The application shall also state that the applicant will accept the permit, if issued, with the knowledge that it is revocable at the pleasure of the town council or its designee and that, upon revocation, the encroachment or obstruction will be promptly removed by the owner of the property and upon the owner's failure so to do, the town may remove the encroachment or obstruction without liability to the owner for damages and with the right to recover from the owner all costs incurred by the town in the removal of the encroachment or obstruction.
- (b) It shall be unlawful for any person to cause an A-frame sign to be placed in any right-of-way, sidewalk or other public property of the town without first obtaining an encroachment permit. Upon determination that an A-frame sign will not materially or unreasonably interfere with the use of any public right-of-way, sidewalk or other public property or constitute a hazard, the town council or its designee may issue an encroachment permit for an A-frame sign subject to the following conditions:
- (1) A-frame signs shall only be permitted in D, downtown, HR-C, highway retail commercial, PS-C, planned shopping center, R-O, residential office, I-1, light industrial and I-2, heavy industrial districts.
 - (2) Two signs faces shall be permitted per A-frame sign.
 - (3) A-frame signs shall be positioned to allow a five-foot clear sidewalk area for pedestrians. The sign shall be placed in the right-of-way, sidewalk or other public property in a manner that shall meet all ADA standards.
 - (4) A-frame signs shall only be permitted on the right-of-way, sidewalk or other public property in front of the business which holds the permit.

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- (5) There shall only be one A-frame sign allowed per business.
 - (6) Colors shall blend with and compliment the overall color scheme of the street and shall not consist of obtrusive colors such as neon or day-glo. A-frame signs shall be nonilluminated.
 - (7) The material for changeable messages may be chalk board or wipe down board.
 - (8) The sign must be durable, sturdy and stable and shall be weighted sufficiently to withstand wind gusts or weather conditions. The sign must be constructed of substantial and quality materials.
 - (9) The total size of an A-frame sign shall not exceed 48 inches in height and 30 inches in width.
 - (10) A-frame signs must be removed from the right-of-way, sidewalk or other public property at the end of each business day.
 - (11) Notwithstanding the above, the zoning administrator shall have the authority to order that A-frame signs shall be removed in any case where the signage may produce distractions to motorists, threats to public safety, violent contrasts of materials or colors and intense and lurid colors or patterns, or details inconsistent with the ordinance or with the prevailing character of the surrounding neighborhood, the historic district or the entrance corridor overlay district.
- (c) *Permit processing fee.* A nonrefundable processing fee established by the town council and on file in the town clerk's office shall accompany each application to cover the cost of processing the application.
 - (d) *Indemnification of the town.* In order to obtain an encroachment permit for outdoor dining or A-framed signs, the permittee shall hold and keep current a policy of liability insurance covering bodily injury and property damage in the amount of \$1,000,000.00, which names the town as a co-insured. Such policy shall protect and save the town harmless from any and all claims or demands for damages by reason of any negligence of the sign hanger, contractor, property owner or occupants, or their respective agents; or by reason of defects in the construction, or damages resulting from the collapse, failure or combustion of the sign or parts thereof. Such policy shall be maintained so long as the sign in question remains erected.
 - (e) *Approval of the town manager.* Whenever an application for a permit required by this article is received by the town manager, he or his designee shall determine whether or not the provisions of this article respecting the same have been complied with and shall consider the same and whether or not the granting of the permit is in the public interest and shall issue or deny the permit.
 - (f) *Violations; penalty.* It shall be unlawful and shall constitute a misdemeanor for any person to cause an encroachment or obstruction to exist on any street or other property of the town except as permitted by law. Any person violating this section shall be subject to a fine of not less than \$50.00, nor more than \$250.00, and each day of the existence of such encroachment or obstruction shall constitute a separate offense.

(Ord. of 11-3-2009, § 1)

Secs. 70-48—70-80. Reserved.

ARTICLE III. PARADES³

³Cross reference(s)—Amusements and entertainments, ch. 14; environment, ch. 38; traffic and vehicles, ch. 78; driving through or in parade, § 78-94.

State law reference(s)—Equine Activity Liability Act, Code of Virginia, § 3.1-796.130 et seq.

DIVISION 1. GENERALLY

Sec. 70-81. Defined.

For the purposes of this article, the word "parade" shall mean and include any line of persons, vehicles and/or animals or any march, ceremony, show, exhibition, pageant or demonstration constituting or being a procession of any kind, or any similar display in or upon any street or municipally operated parking lot in the town.

(Code 1982, § 13-12)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 70-82. Interference.

No person shall unreasonably hamper, obstruct, impede or interfere with any parade, parade assembly or any person, vehicle or animal participating or used in a parade.

(Code 1982, § 13-13)

Sec. 70-83. Parking along parade route.

The town manager shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or part thereof, constituting a part of the route of a parade. The town manager shall cause to be posted signs to such effect and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

(Code 1982, § 11-70)

Sec. 70-84. Violations of article.

Unless otherwise specifically provided, a violation of any provision of this article shall constitute a class 3 misdemeanor.

(Code 1982, § 13-1)

Secs. 70-85—70-115. Reserved.

DIVISION 2. PERMIT

Sec. 70-116. Required; exceptions.

No person shall engage in, participate in, aid, form or start any parade unless a parade permit has been obtained from the town manager. This section shall not apply to:

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- (1) Funeral processions.
 - (2) Students accompanied by and under the direction and supervision of adult school authorities going to and from school classes or participating in educational activities approved by school authorities; however, this exception shall not apply to a school band marching in formation.
 - (3) A governmental agency acting within the scope of its functions.

(Code 1982, § 13-19)

Sec. 70-117. Application generally.

A person seeking issuance of a parade permit shall file an application with the town manager on forms provided by such officer. The application shall be filed not less than seven days, nor more than 60 days before the date on which it is proposed to conduct the parade. The application shall set forth the following information:

- (1) The name, address and telephone number of the person seeking to conduct the parade.
- (2) If the parade is proposed to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and the authorized and responsible heads of such organization.
- (3) The name, address and telephone number of the parade marshal who will be responsible for the parade's conduct.
- (4) The date on which the parade is proposed to be conducted.
- (5) The route to be traveled, the starting point and the termination point.
- (6) The location, by streets, of any assembly areas for the parade.
- (7) The hours when the parade will start and terminate.
- (8) The time at which units of the parade will begin to assemble at any assembly area.
- (9) The approximate number of persons, animals and vehicles constituting the parade and the type of animals and a description of the vehicles.
- (10) The interval of space to be maintained between units of the parade.
- (11) A statement as to whether the parade will occupy all or only a portion of the width of the streets, between the sidewalks, proposed to be traversed.
- (12) A statement as to whether the parade will occupy any portion of the width of the sidewalks of the streets proposed to be traversed and, if so, what portion thereof.
- (13) If the parade is designed to be held by, on behalf of or for any person other than the applicant, a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his behalf.
- (14) Any additional information which the town manager shall find reasonably necessary to a fair determination as to whether a permit should be issued.

(Code 1982, § 13-20)

Sec. 70-118. Town manager to act on application within five days.

The town manager shall act upon the application for a parade permit within five days after the filing thereof.

(Code 1982, § 13-21)

Sec. 70-119. Standards for issuance.

The town manager shall issue a parade permit when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:

- (1) The conduct of the parade will not substantially interrupt the safe and orderly movement of other pedestrians and vehicular traffic contiguous to its route.
- (2) The conduct of the parade will not require the diversion of so great a number of police officers of the town, to properly police the line of movement and areas contiguous thereto, as to prevent normal police protection to the remainder of the town.
- (3) The conduct of the parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to other portions of the town than those to be occupied by the proposed line of march and areas contiguous thereto.
- (4) The concentration of persons, animals and vehicles at assembly and termination points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such points.
- (5) The conduct of the parade will not interfere with the movement of firefighting equipment en route to a fire.
- (6) The conduct of the parade is not likely to cause physical injury to persons at the assembly areas or termination point or on the route to be traveled.
- (7) The parade is scheduled to move from its point of origin to its termination point expeditiously and without unreasonable delays en route.
- (8) The parade is not designed to be held purely for the private profit of the person holding the parade or for the sole purpose of advertising any product or goods of such person.

(Code 1982, § 13-22)

Sec. 70-120. Contents.

Each parade permit shall state the following information:

- (1) Assembly time.
- (2) Starting time.
- (3) Minimum speed.
- (4) Maximum speed.
- (5) Maximum interval of space to be maintained between the units.
- (6) The portions of the streets to be traversed that may be occupied by the parade.
- (7) The maximum length, in miles or fractions thereof, of the parade.
- (8) The assembly area.
- (9) Termination area.
- (10) Such other information as the town manager shall find necessary to the enforcement of this article.

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(Code 1982, § 13-23)

Sec. 70-121. Copy to be sent to certain officials.

Immediately upon the issuance of a parade permit, the town manager shall send a copy thereof to the following:

- (1) The mayor.
- (2) The chief of police.
- (3) The fire chief.
- (4) The general manager or responsible head of each public transportation utility, the regular routes of whose vehicles will be affected by the route of the proposed parade.

(Code 1982, § 13-24)

Sec. 70-122. Duties of permittee; permit to be carried on person.

A permittee under this division shall comply with all permit directions and conditions and with all other applicable laws and ordinances. The parade marshal or other person heading or leading the parade shall carry the parade permit upon his person during the conduct of the parade.

(Code 1982, § 13-25)

Sec. 70-123. Not transferable.

No permit issued pursuant to this division shall be assigned or transferred to another person by the designated permittee.

(Code 1982, § 13-26)

Sec. 70-124. Notice of denial.

If the town manager disapproves an application for a parade permit, he shall mail to the applicant, within three days after the date upon which the application was filed, a notice of his action, stating the reasons for his denial of the permit.

(Code 1982, § 13-27)

Sec. 70-125. Appeal from denial.

If the town manager denies a parade permit, the applicant shall have the right, within ten days after the notice of denial given pursuant to section 70-124, to appeal the decision of the town manager to the town council. Such appeal shall be considered by the council at its next regular meeting to be held after notice of appeal is given, in writing, by the applicant. Any person desiring to appeal from the decision rendered by the council on the appeal from the decision of the town manager shall have the right to appeal the same to the circuit court of the county, provided notice of appeal is given within ten days after the decision of the council, in writing, is given to such person.

(Code 1982, § 13-28)

Sec. 70-126. Alternate permit.

The town manager, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within one day after notice of the action of the town manager, file a written notice of acceptance with the town manager. An alternate parade permit shall conform to the requirements of and shall have the effect of a parade permit issued under this division.

(Code 1982, § 13-29)

Sec. 70-127. Revocation.

The town manager shall have the authority to revoke a parade permit issued pursuant to this division upon violation of the standards for issuance set forth in section 70-119.

(Code 1982, § 13-30)

Secs. 70-128—70-160. Reserved.

ARTICLE IV. PUBLIC ASSEMBLIES⁴

DIVISION 1. GENERALLY

Sec. 70-161. Defined.

As used in this article, the term "public assembly" shall mean and include any public address, lecture or discourse or any public meeting, demonstration or other assembly upon any of the streets, sidewalks or public alleys of the town or within any of the parks, municipally operated parking lots or other public property in the town. Such term shall not include a parade conducted in accord with a permit issued under article III of this chapter.

(Code 1982, § 13-41)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 70-162. Erection or placement of structures at site.

No structure of a temporary or permanent nature shall be erected or placed at the site of a public assembly, except upon the written permission of the town manager.

(Code 1982, § 13-42)

Cross reference(s)—Buildings and building regulations, ch. 22.

⁴Cross reference(s)—Civil emergencies, ch. 30; environment, ch. 38.

Sec. 70-163. Violations of article.

Unless otherwise specifically provided, a violation of any provision of this article shall constitute a class 3 misdemeanor.

(Code 1982, § 13-1)

Secs. 70-164—70-195. Reserved.

DIVISION 2. PERMIT

Sec. 70-196. Required.

It shall be unlawful for any person to organize, conduct or hold, or engage or participate in, a public assembly, unless a permit for such assembly has been obtained from the town manager.

(Code 1982, § 13-48)

Sec. 70-197. Application generally.

A person seeking a permit required by this division shall file an application with the town manager on forms provided by the town manager. Such application shall be filed not less than five days, nor more than 60 days before the date on which it is proposed to conduct or hold the public assembly. Such application shall set forth the following information:

- (1) The name, address and telephone number of the applicant.
- (2) If the public assembly is to be conducted or held for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorized heads of such organization.
- (3) The name, address and telephone number of the person who will be in charge of the public assembly and who will be responsible for its conduct.
- (4) The names and addresses of the speakers.
- (5) The date and hours for which the permit is desired.
- (6) The street, sidewalk, public alley, park, parking lot or property where the public assembly will be conducted or held and which portions of the street, park, parking lot or property are proposed to be used therefor.
- (7) The nature and purpose of the public address, lecture, discourse, meeting, demonstration or assembly.
- (8) An estimate of the anticipated attendance.
- (9) If the public assembly is designed to be conducted or held by, on behalf of or for any person other than the applicant, a communication, in writing, from the person proposing to conduct or hold the assembly, authorizing the applicant to apply for the permit on his behalf.
- (10) Any additional information which the town manager shall find reasonably necessary to a fair determination as to whether a permit should be issued.

(Code 1982, § 13-49; Ord. of 9-1-2020)

Sec. 70-198. Town manager to act on application within five days.

The town manager shall act upon the application for a permit required by this division within five working days after the filing thereof.

(Code 1982, § 13-50; Ord. of 9-1-2020)

Sec. 70-199. Standards for issuance.

The town manager shall issue a permit applied for under this division when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:

- (1) The place where it is proposed to conduct or hold the public assembly has not been reserved for another use on the date and hours requested in the application.
- (2) All customary and reasonable rents, fees, charges or deposits, if any, required by the town or any department thereof for the use of the park or place where it is proposed to conduct or hold the public assembly will be paid by the applicant or person conducting or holding the same.
- (3) The conduct of the public assembly will not substantially interrupt the safe and orderly movement of pedestrian and vehicular traffic at or contiguous to the place where the assembly is proposed to be conducted or held.
- (4) The conduct of the public assembly will not require the diversion of so great a number of police officers of the town, to properly police the place where the same is conducted or held and the areas contiguous thereto, as to prevent normal police protection to the remainder of the town.
- (5) The concentration of persons, animals or vehicles at the place where the public assembly is proposed to be conducted or held will not unduly interfere with proper fire and police protection of or ambulance service to areas contiguous to such place.
- (6) The stated purpose of the public assembly is not to incite to violence or crime or the overthrow of the government by force.
- (7) The public assembly is not designed to be conducted or held purely for the private profit of the person conducting or holding the same or for the sole purpose of advertising any product or goods of such person.
- (8) The required \$25.00 assembly permit application fee has been paid.

(Code 1982, § 13-51; Ord. of 9-1-2020)

Sec. 70-200. Contents.

Each permit issued under this division shall state the following information:

- (1) The date of the public assembly.
- (2) The starting time.
- (3) The termination time.
- (4) The portions of the street, sidewalk, public alley, park, parking lot or other public property where the public assembly may be conducted or held.
- (5) Such other information as the town manager shall find necessary to the enforcement of this article.

(Code 1982, § 13-52)

Sec. 70-201. Copy to be sent to certain officials.

Immediately upon the issuance of a permit required by this division, the town manager shall send a copy thereof to the following:

- (1) The mayor.
- (2) The chief of police.
- (3) The fire chief.

(Code 1982, § 13-53)

Sec. 70-202. Duties of permittee; permit to be carried on person.

A permittee under this division shall comply with all the permit directions and conditions and with all applicable laws and ordinances. The person conducting or holding the public assembly shall carry the permit upon his person during the conduct of the assembly.

(Code 1982, § 13-54)

Sec. 70-203. Not transferable.

No permit issued pursuant to this division shall be transferable or assignable to another person.

(Code 1982, § 13-55)

Sec. 70-204. Notice of denial.

If the town manager disapproves an application for a permit under this division, he shall mail to the applicant, within three working days after the date upon which the application was filed, a notice of his action, stating the reasons for his denial of the permit.

(Code 1982, § 13-56; Ord. of 9-1-2020)

Sec. 70-205. Appeal from denial.

If the town manager denies a permit applied for under this division, the applicant shall have the right, within ten days after the notice of denial given pursuant to section 70-204, to appeal the decision of the town manager to the town council. Such appeal shall be considered by the council at its next regular meeting to be held after notice of appeal is given, in writing, by the applicant. Any person desiring to appeal from the decision rendered by the council on the appeal from the decision of the town manager shall have the right to appeal the same to the circuit court of the county, provided notice of appeal is given within ten days after the decision of the council, in writing, is given to such person.

(Code 1982, § 13-57)

Sec. 70-206. Alternate permit.

The town manager, in denying an application for a permit required by this division, shall be empowered to authorize the conduct of the public assembly on a date, at a time or at a place different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within one day after notice of the action of the town manager, file a written notice of acceptance with the town manager. An alternate permit shall conform to the requirements of and shall have the effect of a permit required by this division.

(Code 1982, § 13-58)

Sec. 70-207. Revocation.

The town manager shall have the authority to revoke a permit issued under this division upon a violation of the standards for issuance set forth in section 70-199.

(Code 1982, § 13-59)

Secs. 70-208—70-219. Reserved.

ARTICLE V. WINDSOR CASTLE PARK

Sec. 70-220. Official name of park.

The official name of that certain tract of land acquired by the Town of Smithfield from Windsor Castle, LLC, comprised of two tracts of land adjacent to Jericho Road, containing 46.18± acres and 162.58± acres, respectively, and identified as tax map parcel numbers 21-01-089A and 21-01-092 on the 2010 Tax Maps for Isle of Wight County shall be Windsor Castle Park.

(Ord. of 5-4-2010, § 1)

Sec. 70-221. Rules and regulations for Windsor Castle Park.

The following rules and regulations shall apply to persons using Windsor Castle Park:

WINDSOR CASTLE PUBLIC PARK RULES AND REGULATIONS

- (1) *Alcohol.*
 - a. No person shall consume or possess an open or previously opened container containing any alcoholic beverage while in public park and recreation facilities.
 - b. Persons hosting and attending authorized on-site special events will be held accountable to rules and regulations established in a separate policy.
 - c. No person shall consume, possess or be under the influence of any controlled substance, as defined by the Code of Virginia, while in public park and recreation facilities.
- (2) *Parking.* No person shall operate or park any vehicle in public park and recreational facilities except on the parking areas provided and/or designated for this purpose. Nor shall any vehicles be parked in a manner as to impede or obstruct the normal safe flow of traffic.
- (3) *Gambling.* No person shall engage in games of chance in public park and recreational facilities.

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- (4) *Hunting.* No hunting is allowed.
 - (5) *Open fires.* No person shall make a fire in a public park at any location other than designated BBQ grilling areas.
 - (6) *Use by children.* No parent or guardian shall permit a child under the age of 12 years, or such other age as is specifically posted by the town manager, to make use of public park and recreational facilities without providing for direct supervision of the child.
 - (7) *Skateboards.* No person shall ride or use a skateboard in public park and recreational facilities.
 - (8) *Restrooms.* No person shall fail to cooperate in maintaining restrooms in a neat and sanitary condition. There shall be no loitering in the restrooms.
 - (9) *Use of property and equipment.* No person shall damage, deface, destroy, remove, injure or improperly use public park and recreational facilities, property, equipment or the natural environment.
 - (10) *Litter.* No person shall throw, deposit or leave any litter, refuse or rubbish of any kind in public park and recreational facilities except in public receptacles and in such manner that the litter, refuse or rubbish will be prevented from being carried by the elements. Where public receptacles are not provided all such litter, refuse or rubbish shall be carried away from the area by the person responsible for its presence and properly disposed of elsewhere.
 - (11) *Animals.* No person shall permit his animal to run at large. In the case of a dog, the owner or his agent shall secure the animal by a collar with a chain, cord, or leash not exceeding eight feet in length, and have the animal under complete and immediate control.
 - (12) *Instruction.* No person other than those authorized by the town manager shall offer instruction in public park and recreational facilities.
 - (13) *Hours of operation.* Hours the public park and recreational facilities are available to the public are from dawn to dusk, unless authorized by the town manager due to an approved special event.
 - (14) *Permits/rental agreements.* Permits for the use of public park and recreational facilities may be required by the town manager. Where permits are required, no person shall engage in or make use of any park and recreational facility without first paying for same and adhering to the rules and regulations governing use of said facility.
 - (15) *Sale of goods.*
 - a. No person shall post, distribute, circulate or display any notice, banner, advertisement or printed material in any park or recreational facility without obtaining written permission from the town manager.
 - b. No person shall offer for sale or rent any goods, articles, privileges, commodities or services whatsoever or solicit for any purpose in any recreational facility without obtaining permission from the town manager and for such time and at such places as the town manager may determine.
 - (16) *Concessions.* The sale of foods, soft drinks or other like goods is prohibited in public park or recreational facility, except from canteens or concessions operated by concessioners authorized by the town manager.
 - (17) *Vehicles.* No person shall use any park or recreational facility for washing, repairing or servicing, other than replacing a flat tire, of any vehicle designed for self-propulsion. Abandonment of such vehicles is prohibited. If mechanical disablement occurs, immediate steps must be taken for removal.

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- (18) *Nature trails, pedestrian paths.* No persons other than those authorized by the town manager shall operate a motorized vehicle upon nature trails, pedestrian paths, and bikeways specifically designated and established for such use.
 - (19) *Operation of motorized vehicles.* No person shall operate a nonlicensed motorized vehicle in any park or recreational facility unless in an area specifically designated for such use by the town manager.
 - (20) *Metal detectors.* No person shall utilize any type of electronic metal detecting device in any recreational facility.
 - (21) *Rules and regulations.* The town manager shall have the right to promulgate rules and regulations for the operation of public park and recreational facilities and the activities therein.
 - (22) *Violations.* Any person violating any provision of this article or any rule or regulation duly adopted hereunder, shall be guilty of a class 4 misdemeanor, punishable by a fine of not more than \$250.00, unless otherwise specifically provided. In addition, such person may be ejected from the park, building or other facility wherein the violation occurred.
 - (23) *Water facilities.*
 - a. Fishing pier will only be used during regular park hours of dawn to dusk. State fishing license is required.
 - b. Kayak/canoe launch dock will only be used during regular park hours of dawn to dusk.
 - c. No motorboats allowed.
 - d. No Swimming allowed.
 - (24) *Park rules.*
 - a. Each park has posted rules and regulations to assist patrons and staff in providing a safe, enjoyable and clean environment for all park users.
 - b. Animals are not permitted on or within 50 feet of playgrounds. Owners must remove all animal waste.
 - c. Hitting golf balls, javelin throwing, flying model airplanes, or performing any activity within the park that is detrimental to turf or hazardous to other park users is not allowed.
 - d. If you have any questions regarding park rules or Town of Smithfield Codes, please contact the town manager's office.
 - (25) *Playground safety.* Playgrounds are designed and constructed for children two to 12 years of age. Parents should supervise children at all times to ensure proper use of equipment and are responsible for their children. Do not leave children unsupervised. Please report accidents, injuries or dangerous situations to town staff immediately.

(Ord. of 5-4-2010, § 1; Ord. of 12-4-2012, § 5)

Sec. 70-222. Rules and regulations for Windsor Castle Park Dog Park.

The following rules and regulations shall apply to persons using Windsor Castle Park Dog Park:

WINDSOR CASTLE DOG PARK RULES AND REGULATIONS

- (1) Prior to entering and using the dog park, all dogs must be registered at town hall and all owners/handlers must read and agree to abide by the dog park rules. To register your dog: The owner's

information, the handler's information (if different) and the dog's information must be submitted on the registration form.

- (2) Information for your dog must include the home, approximate age, breed, and city or county of dog license registration. Owners must present written records indicating current dog license and rabies vaccination.
- (3) Since this is a community dog park, the town recommends that all users consult their local veterinarian to determine if their pet should receive preventative vaccinations other than those required by the town for dog park usage.
- (4) Use of the dog park shall be at your own risk.
- (5) The dog park has two areas, one for small dogs 30 pounds and less and an area for large dogs. To ensure the safety of all dogs in the park, dogs should be kept in the area that fits their weight category.
- (6) All dogs must be leashed while in Windsor Castle Park, except when inside the dog park fence.
- (7) The dog park gates must be kept closed. No animals other than dogs are allowed in the dog park.
- (8) Aggressive, disruptive, sick, female dogs in heat, and puppies younger than four months old are not permitted in the dog park.
- (9) Only two dogs per handler are allowed. Dogs must be under the handler's control at all times.
- (10) A handler must be 18 years old, but may permit a person who is 12 years or older to participate in the handling of the dog.
- (11) Children under the age of five years are not allowed within the dog park fences at any time. Children are not allowed to run with or chase dogs within the dog park.
- (12) Smoking, food, cigarettes and tobacco products, glass containers, and trash are not allowed in the dog park. These items may cause harm to the dogs.
- (13) Do not feed the dogs in or near the dog park. This includes training treats.
- (14) Choke, prong, pinch and spike collars must be removed before a dog may run free in the dog park.
- (15) If any injury occurs, handlers should exchange contact information before leaving the park.
- (16) Handlers are responsible for cleaning up after their dogs. Failure to clean up will be cause for termination of further use of the dog park.
- (17) No dog shall be left unattended by its owner/handler.
- (18) Do not let your dog dig holes in the park.
- (19) Anyone creating a disturbance or violating the dog park or general park rules may be asked to leave Windsor Castle Park and/or lose privileges to use the dog park. In the event of loss of privileges, there shall be no refund of any portion of the registration fee.
- (20) The town is not responsible to mediate any disputes. Some or all persons involved in a dispute may be directed to leave Windsor Castle Park. Further the town manager may in his/her sole discretion, either temporarily ban persons involved in a dispute from either the dog park or the entirety of Windsor Castle Park. In either case no refund will be made of dog park registration fees.

(Ord. of 5-4-2010, § 1)

Sec. 70-223. Registration fees for use of Windsor Castle Park Dog Park.

Persons using the Windsor Castle Dog Park shall be required to provide the information required by these rules and regulations and shall register their dogs and pay the required registration fees at the treasurer's office in Town Hall at 310 Institute Street.

- (1) There shall be an annual registration fee for Smithfield and Isle of Wight County residents in the amount of \$10.00 for the first dog and \$5.00 for each additional dog.
- (2) There shall be an annual registration fee for nonresidents in the amount of \$15.00 for the first dog \$10.00 for each additional dog.
- (3) Daily passes for use of the dog park shall be available as follows:
 - 1 Day pass - Visitor fee - \$2.00 per dog.
 - 3 Day pass - Visitor fee - \$5.00 per dog.

(Ord. of 5-4-2010, § 1)

Sec. 70-224. Compliance with article; general penalty for violation.

It shall be unlawful for any person to refuse, fail or neglect to comply with any of the provisions of this article or any rule or regulation promulgated pursuant thereto. Unless otherwise specifically provided, a violation of this article or any such rule or regulation shall constitute a class (4) misdemeanor and shall be punishable by a fine of not more than \$250.00.

(Ord. of 5-4-2010, § 1)

Sec. 78-16. Operation of bicycles, roller skates, skateboards, motorized skateboards or scooters, motor-driven cycles, and electric power-assisted bicycles on sidewalks, crosswalks, and shared-use paths.

- (a) The use of roller skates, skateboards and electric personal delivery devices and/or the riding of bicycles, electric personal assistive mobility devices, motorized skateboards or scooters, motor-driven cycles, or electric power-assisted bicycles is prohibited on designated sidewalks or crosswalks, including those of any church, school, recreational facility, or any business property open to the public where such activity is prohibited. Signs indicating any prohibition shall be conspicuously posted in general areas where use of roller skates, skateboards, and electric personal delivery devices and/or bicycle, electric personal assistive mobility devices, motorized skateboards or scooters, motor-driven cycles, or electric power-assisted bicycle riding is prohibited.
- (b) A person riding a bicycle, electric personal assistive mobility device, motorized skateboard or scooter, motor-driven cycle, or an electric power-assisted bicycle on a sidewalk, shared-use path, or across a roadway on a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing any pedestrian. An electric personal delivery device shall yield the right-of-way to any pedestrian.
- (c) No person shall ride a bicycle, electric assistive mobility device, motorized skateboard or scooter, motor-driven cycle, or an electric power-assisted bicycle or operate an electric personal delivery device on a sidewalk, or across a roadway on a crosswalk, where such use of bicycles, electric personal assistive mobility devices, electric personal delivery devices, motorized skateboards or scooters, motor-driven cycles, or electric power-assisted bicycles is prohibited by official traffic control devices. No person shall park a bicycle,

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electric power-assisted bicycle, or motorized skateboard or scooter in a manner that impedes the normal movement of pedestrian or other traffic or where such parking is prohibited by official traffic control devices.

- (d) A person riding a bicycle, electric personal assistive mobility device, motorized skateboard or scooter, motor-driven cycle, or an electric power-assisted bicycle on a sidewalk, shared-use path, or across a roadway on a crosswalk, shall have all the rights and duties of a pedestrian under the same circumstances. An electric personal delivery device operated on a sidewalk or shared-use path or across a roadway on a crosswalk shall have all the rights and duties of a pedestrian under the same circumstances.
- (e) Upon application, the town manager or his designee may designate those public sidewalks in the town upon which all or any part of such prohibition shall apply.
- (f) A violation of any ordinance adopted pursuant to this section shall be punishable by a civil penalty of not less than \$5.00, nor more than \$50.00.

(Code 1982, § 18-8; Ord. of 12-4-2007(3), § 1; Ord. of 1-8-2008(2), § 1; Ord. of 12-3-2019)

Cross reference(s)—Streets, sidewalks and other public places, ch. 70.

State law reference(s)—Authority of town to prohibit operation of bicycles on sidewalks, Code of Virginia, § 46.2-904.

Sec. 78-18. License for the operation of motorized skateboards or scooters, bicycles, or electric power-assisted bicycles for hire.

(a) *Definitions.*

- (1) *"Shared mobility device" (SMD)* means any motorized skateboard or scooter, bicycle, or electric power-assisted bicycle which is offered by the owner thereof for rent to the public for a fee.
- (2) The terms *"motorized skateboard or scooter"*, *"bicycle"* and *"electric power-assisted bicycle"* shall have the meaning set out for those terms in Code of Virginia, § 46.2-100.
- (3) *"Shared mobility program" (SMP)* means the method by which the owner of one or more SMDs makes devices available for rental by the public.

(b) *Application procedure.*

- (1) Any individual, organization, or entity may apply to the town manager for license to operate a SMP and/or locate one or more SMDs in the town.
- (2) At a minimum, each license application shall include the following:
 - a. The full legal name of the individual, organization, or entity making the application;
 - b. The type and number of SMDs to be operated in the county;
 - c. Each sidewalk to be used by SMDs; and
 - d. An application fee of \$250.00.
- (3) Following consideration of the application, the town council may approve or deny the license application. In approving the application, the town council may limit the area of operation of the SMDs and/or may impose conditions it deems necessary to protect the health, safety, and welfare of the citizens of the county.

- (c) Any individual, organization, or entity found to be operating a SMP in the town without first obtaining a license shall be punishable by a civil penalty of \$50.00 per unpermitted SMD. Each day of violation shall constitute a separate offense.

(Ord. of 12-3-2019)

State law reference(s)—Code of Virginia, § 46.2-1315.

Sec. 78-305. Operation on public highways.

It is unlawful to operate a golf cart on a public highway within the Town of Smithfield unless the following requirements are met:

- (1) Golf carts may be operated on the highways of the Town of Smithfield that allow a maximum speed of 25 mph in areas of permitted operation as set forth in section 78-307 of this article.
- (2) Golf carts must display a slow-moving vehicle emblem in conformity with Code of Virginia, § 46.2-1081, as amended.
- (3) Golf carts shall be operated only between sunrise and sunset.
- (4) No person may operate a golf cart unless that person is licensed to drive upon highways of the Commonwealth of Virginia and then, only in accordance with such driver's license.
- (5) Golf carts must be operated in accordance with all applicable state and local laws and ordinances, including all laws, regulations and ordinances pertaining to the possession and use of alcoholic beverages.
- (6) Only the number of people the golf cart is designed to seat may ride on a golf cart. Additionally, passengers shall not be carried on the part of a golf cart designed to carry golf bags.
- (7) Golf carts must be operated to the extreme right of the roadway and must yield to all vehicular and pedestrian traffic.
- (8) Golf carts shall not be operated in bicycle lanes or on sidewalks.
- (9) Golf carts shall not be operated during inclement weather, nor when visibility is impaired by weather, smoke, fog, or other conditions.
- (10) Golf carts may not cross over the highways of the Town of Smithfield that allow a speed of more than 25 mph.
- (11) The chief of police, or his designee, may prohibit the operation of golf carts on any highway if the chief determines that the prohibition is necessary in the interest of safety.

(Ord. of 6-7-2011(2), § 1)