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**Draft proposed new ordinance in Chapter 14, Streets and Sidewalks, as a new Article VI, Use of Public Grounds, consisting of Sections 14-101 through 14-103.**

**Sec. 14-101. Purposes.**

The purposes of this Article VI are: Protecting the right of the people to peaceably assemble, protecting the right of the people to freedom of speech, protecting the right of the people to petition the government for a redress of grievances, protecting public safety, preserving property rights, protecting the peace and tranquility of residential property, making sure that streets, sidewalks, parks and other public places are available for their intended purposes, coordinating multiple uses of space, assuring financial accountability for damage to public facilities, and protecting the operation of government. In any application of this section to expressive behavior, the intent of this section is to be consistent with constitutional guarantees of free expression, freedom of assembly, and the right to petition by providing reasonable, content-neutral and narrowly tailored time, place and manner restrictions that serve the purposes of this Article, while preserving ample and adequate alternative channels of communication.

**Sec. 14-102. Definitions.**

(a) *Definitions.* For purposes of this section, the following terms have the meanings given below:

*"Event"* means an occurrence at a given location for some defined period of time, and includes but is not limited to a parade, sidewalk gathering, street closure, and a park gathering.

*"Non-forum"* means a town-owned facility or area not suitable for public assembly for safety reasons, including but not limited to any town office, town storage or utility facility, or similar location. Persons present in non-forums without authority are trespassing.

*"Organized public gathering"* means any gathering of persons, with or without vehicles, in or on public areas or facilities for any activity as a group, and includes but is not limited to a parade, sidewalk gathering, street closure, or park gathering.

*"Parade"* means a procession, with or without vehicles, requiring the closure of town streets to normal traffic in order to protect safety.

*"Park gathering"* means a planned gathering of more than 200 persons in a public park.

*"Public areas or facilities"* means public grounds, places and streets owned by or within the town limits of the Town.

*"Sidewalk gathering"* means a planned gathering of 15 or more persons standing on or moving along Town right-of-way, using the sidewalk where one is provided, and attracting the attention of the public.

*"Spontaneous gathering"* means an unplanned or unannounced coming together of persons, with or without vehicles, consisting of a parade, sidewalk gathering, or other gathering which

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may occur in response to unforeseen circumstances or events of immediate and obvious importance that allows no opportunity for obtaining a permit under this section.

"*Street closing*" means the temporary closing of a portion of a Town street to vehicular traffic.

"*Town*," for purposes of implementing this section, means the Town Manager or an officer or employee of the Town of Warrenton designated by the Town Manager.

"*Traditional public forum*" means a town-owned area which by long tradition is open to the expression of views, and includes public parks, Town streets and public sidewalks.

### **Sec. 14-103. Permit Requirement.**

- (a) *General Requirement.* Unless otherwise specifically provided by this section or other law, no organized public gathering, shall be conducted, allowed or maintained on or within public areas or facilities without first obtaining a permit therefor from the Town.
- (b) *Application.* Except as provided in subsection (k) of this Section, an application for a permit and application fee shall be filed with the Town at least 5 business days in advance for a sidewalk gathering of between 15 and 200 persons and at least fourteen business days in advance for a parade, street closing, park gathering, or sidewalk gathering of more than 200 persons. The application for a Special Event permit shall include a public safety plan if required by subsection (d) of this section. If a park gathering also uses park facilities available for rental or seeks changes to the general rules set out in subsection (h) of this section, then the organizer must also, pay all applicable fees to the Town, and enter into a park use contract. The application will set forth:
  - (1) The name of the applicant and the names of the persons who will be in charge of the event, at least one of whom will be present at all times during the event;
  - (2) The date, time, duration, nature and place or route of the proposed event;
  - (3) An estimate of the number of persons expected to attend over the course of the event and the maximum expected at any one time; and
  - (4) A statement or description of equipment and facilities to be used.
- (c) *Issuance; grounds for denial.* The Town shall, by the end of the business day following the business day the application is received, and subject to the provisions of this section, issue a permit on proper application unless grounds exist under this subsection to deny the permit. If the permit is denied, the Town will inform the applicant of the reason for denial and of the applicant's appeal rights granted by subsection (n) of this section. A permit may be denied only if one or more of the following grounds exist:
  - (1) A Town-sponsored event or a repair or construction project is scheduled for that time and place, or a prior application for a permit for the same time and place or overlapping times and places has been made that has been or will be granted, and the nature of the events or projects does not reasonably allow multiple occupancy of that particular area. In such cases, the Town shall offer an alternative space or time, taking

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- care to separate groups whose proximity might create a breach of the peace, or allot the space as the applicants may agree;
- (2) It reasonably appears that the event will present an unreasonable danger to the public health or safety;
  - (3) The event is of such nature or duration that it cannot reasonably be accommodated in the particular location applied for, because (i) it is a non-forum, or (ii) an unreasonable risk of damage to public areas or facilities, or (iii) an unreasonable risk of interference with planned Town activities, or (iv) the area proposed is too small for the number of persons expected. In such cases, the Town shall suggest an alternative location, if one exists, that would not pose such unreasonable risks;
  - (4) The application is for an area in excess of the reasonable needs of the applicant given the number of people expected at the event. In cases covered under this provision, the Town shall issue a permit for such area as is needed for the size of the applicant's planned event;
  - (5) The applicant has failed to pay any costs owed to the Town under subsection (1) of this section;
  - (6) A public safety plan is required by subsection (d) of this section and has not been submitted or the public safety plan has been rejected;
  - (7) The application is for a parade but the applicant does not have at least 100 persons willing to take part;
  - (8) The application is for a parade or street closure and would unreasonably interfere with pedestrian or motor vehicle traffic, in which case the Town shall suggest an alternative time or location for the event. An application unreasonably interferes with traffic if it would:
    - a. Occur at the same time or overlapping times with one or more other parade(s) or street closure(s) in the vicinity; or
    - b. Close any part of Broadview Avenue, Lee Highway, Shirley Avenue, Falmouth Road, \_\_\_\_\_, or any street reasonably necessary for emergency vehicle dispatch due to its proximity to a police station, a fire station, or a rescue squad; or
    - c. Otherwise unreasonably interferes with traffic for specific reasons articulated by the Town, based on past experience or reasonable anticipation.
  - (9) The applicant or any person acting in concert with him or her violated any provision of subsection (f) of this section, or any park rule applicable to a park gathering, in relation to an event within the previous 12 months;
  - (10) The application is for a gathering focused on and taking place in front of a residence or dwelling place and would impair the peace and tranquility of the residence or dwelling place;
  - (11) The application is for a parade or street closure requiring the use of Town Police or Public Works staff and the proposed dates of the event are within one calendar day of
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an already approved parade, street closure, or Town-sponsored event, such that the Town will have inadequate staff to meet its operational needs.

(d) *Public Safety Plan.* When required by this subsection, the applicant shall submit a public safety plan to the Town to address traffic disruption, pedestrian safety, starting and ending times, lighting, and any other factors bearing on the safety, order, and accessibility of streets and sidewalks, including sign size, maximum number of persons in an area, sound amplification, and control of animals. The Town shall, upon request, assist the applicant in preparing the public safety plan. A public safety plan may be rejected only if it presents grounds under which a permit would be denied under subsection (c) of this section or creates an unreasonable risk of injury to pedestrians or interference with lawful businesses, commerce, professions, non-profit organizations, or civic events. For a renewal, the Town will require a new public safety plan if the prior public safety plan proved inadequate under this standard.

(1) Public Safety Plans are required under the following circumstances:

a. Street closures and parades require a public safety plan.

i. Pursuant to Virginia Code § 15.2-2013(2), the public safety plan shall be accompanied by proof of insurance with an insurance company licensed to do business in the Commonwealth and insuring against personal injury, death, and property damage resulting from the temporary use of the street in a coverage amount of at least \$1,000,000.00, naming the Town as an additional insured. However, under Virginia Code § 15.2-2014, the Town Manager may temporarily close any public right-of-way to vehicular traffic when in his or her judgment the public safety so requires, and shall do so if an applicant is unable to obtain insurance.

ii. The public safety plan shall provide for law enforcement personnel to direct traffic for any parade or for a street closure if necessary for public safety. The number of officers required shall be based solely on the reasonably anticipated number of participants and the location of the event. For purposes of this section, counter-demonstrators are not participants.

iii. The public safety plan shall provide for emergency medical services consistent with FEMA's Special Events Contingency Planning Job Aids Manual Guide To The Provisions of Medical Aid.

b. If a sidewalk gathering involves a procession of more than 50 persons crossing streets as part of the event, a public safety plan is required. The plan shall provide for law enforcement personnel for traffic control at any major intersections along the route of the procession.

c. If any part of an organized public gathering will occur between dusk and dawn, a public safety plan is required.

(2) An applicant shall submit any required public safety plan to the Town with the Special Event application.

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- (3) Any person hired to provide security under a public safety plan shall be either law enforcement personnel or a security officer licensed by or registered with the Virginia Department of Criminal Justice Services. Any persons or company hired to provide emergency medical services shall be licensed by or registered with the Virginia Department of Health Office of Emergency Medical Services.
  - (4) The chief of police or designee will review all public safety plans and advise if the plan is rejected, giving the reasons for the rejection. The applicant may revise a rejected public safety plan and resubmit it at least three business days before the event. If the resubmitted plan resolves the deficiencies noted in the rejection and there are no other grounds for rejecting the permit, the permit shall be granted. No changes may be made to an approved public safety plan without the express, written consent of the Town.
  - (5) If the chief of police or designee rejects the proposed public safety plan, he or she shall inform the applicant of the appeal rights granted under subsection (n) of this section.
  - (6) The public safety plan shall provide for the applicant to pay for the costs of any law enforcement personnel, emergency medical personnel or private contractors called for under the public safety plan. The applicant shall pay all costs incurred under this paragraph (d)(6) within seven calendar days after billing.
  - (7) No person may violate any of the terms of a public safety plan while participating in an organized public gathering.
- (e) *Unattended displays on streets and sidewalks.* Nothing in this Article allows any person to leave a sign or other object in or on the public right-of-way (including sidewalks, utility strips, and unimproved portions of a dedicated right-of-way). Such unattended displays shall be treated as litter or abandoned property, depending on the circumstances.
- (f) *Illegal activities.* Nothing in this section or any permit issued under it shall authorize a person to:
- (1) Obstruct the entrance to any building, property, or vehicle, except to the extent expressly permitted by a public safety plan;
  - (2) Cross police lines, perimeters or barricades set up pursuant to Code of Virginia § 15.2-1714;
  - (3) Trespass on private property in violation of Code of Virginia § 18.2-119, or on school property in violation of § 18.2-128;
  - (4) Obstruct the free passage of others in violation of Code of Virginia § 18.2-404, except to the extent expressly permitted by a public safety plan;
  - (5) Create an unlawful assembly or riot in violation of Code of Virginia §§ 18.2-405 or 18.2-406;
  - (6) Engage in disorderly conduct in violation of Code of Virginia § 18.2-415;
  - (7) Engage in picketing that violates the National Labor Relations Act or Code of Virginia §§ 18.2-418, 18.2-419, 40.1-53, or 40.1-66;
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- (8) Violate the noise standards set out in section 58-35 of this Code; or
  - (9) Otherwise violate applicable law.
- (g) *Authorized times and locations.* Organized public gatherings are permitted only from sun-up to sundown except as permitted by a public safety plan.
- (h) *Permitted and prohibited activities.* Unless otherwise expressly provided by a public safety plan or Special event permit, the following general rules apply to all activities governed by this section, whether a permit is required or not:
- (1) The maximum size of signs carried by persons in the gathering shall be three feet by two feet. Any support used may be no larger than 1" × 1" × 36" with no sharp ends. However, the maximum size of signs and sign supports in a parade, street closure or park gathering may be varied in a public safety plan or park rental contract, taking into account the available area and the planned activities. Signs may not be so similar to traffic signs that motorists are likely to mistake them for actual road signs. No portion of a sign is allowed in the portion of the right-of-way available for use by motor vehicles.
  - (2) The minimum area required for a sidewalk gathering is calculated at the rate of five linear feet of sidewalk per person.
  - (3) Except for trained assistance animals, no animals shall be present at a sidewalk gathering, and any animals in a parade or park gathering must be under constant control as provided for in the public safety plan.
  - (4) The police may mark off areas needed for sight distance by drivers, and persons participating in the event shall stand clear of such areas.
  - (5) Accepting payment for goods or services is permitted only if the applicant has all necessary licenses.
  - (6) Except for lawfully carried firearms, no one present at an organized public gathering may carry any weapon. A "weapon" for purposes of this provision includes (i) any of the items which may not be carried hidden from observation without a concealed weapon permit under Virginia Code § 18.2-308 and (ii) any other object with a sharp point or edge, except a knife with a blade of less than three inches.
  - (7) No person in an organized public gathering may use any television screen or other changeable display visible to drivers, or otherwise unreasonably distract drivers.
  - (8) No person in an organized public gathering may use sound amplification equipment, except to the extent expressly permitted by a public safety plan and/or the special event permit.
  - (9) Sleeping is not permitted as part of any organized public gathering.
  - (10) No structures may be built or placed on public property except as permitted by a public safety plan, park rental contract, or Special Event Permit.
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- (11) No person in an organized public gathering may coerce, intimidate, or harass any other person with physical contact, light, odor, fireworks, or noise.
- (12) No person may violate any park rule or regulation.
- (i) *Term.* No permit for an organized public gathering shall be issued for a period in excess of seven days, which need not be consecutive, provided that permits may be extended for like periods upon a new application. If another applicant has requested use of the same location and multiple occupancy of that location is not reasonably possible, however, then the Town shall allot the space via the method set out in subsection (m) of this section. Multiple applications by the same applicant for substantially the same location shall be treated as a single application.
- (j) *Area of gathering; possession of permit.* Except for events exempted from the permit requirement of this section by subsection (k) below:
- (1) It shall be unlawful to hold an organized public gathering except in the area noted on the permit.
  - (2) It shall be unlawful to hold an organized public gathering except when there is present at the event at least one person designated as a person in charge on the application or by written notice to the Town.
- (k) *Exceptions.* The permit provisions of this section shall be optional for:
- (1) Organized public gatherings by 14 or fewer people on streets or sidewalks, or by 200 or fewer persons in a park;
  - (2) Activities by the U.S. government, Commonwealth of Virginia, or Town of Warrenton, or any division, department, or agency thereof;
  - (3) Spontaneous gatherings;
  - (4) Funeral processions where law enforcement either provides traffic control or determines that no traffic control is needed.
- (l) *Financial responsibility.* The applicant is responsible for any and all damage to public facilities caused by the applicant or by any agent or partner of the applicant. If a person receives a permit for an event and does not hold the event, then he or she shall pay the Town for the reasonable cost of assisting the applicant in developing any public safety plan for that event as well as any reasonable overtime or third party costs incurred by the Town in relation to the event.
- (m) *Date of application; overlapping applications.* No permit shall be granted for any event beginning more than six months after the date of application. If two or more applications are made for overlapping areas and times, and the nature of the events or projects does not reasonably allow multiple occupancy of that particular area, then the one received first will be honored and the Town will suggest alternative times and/or locations for the later one. All applications received on the same day will be considered simultaneous. An application for renewal will be considered simultaneous with a new application for the same or overlapping area and time. If there are two or more simultaneous applications for
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overlapping areas and times, then the Town will contact the applicants and attempt to accommodate all applicants' needs by agreement. If agreement cannot be reached, the permit for the overlapped area and time shall be awarded by lot.

- (n) *Appeals.* Within five calendar days a person denied a permit or whose public safety plan is rejected may appeal that decision to the Town Manager. After appropriate notice to interested parties, if any, the Town Manager shall hear and decide the appeal within two business days. Within three calendar days of the Town Manager's decision on appeal the appellant may further appeal any adverse decision to the Town Council. After appropriate notice to interested parties, if any, the Town Council shall hold a timely meeting to hear and decide the appeal.
- (o) *Waiver.* The Town may grant waivers on request, but only if the inadequacy being overlooked does no harm to the policies furthered by the application requirements and only if the waiver and the grounds for it are recorded in writing contemporaneously with the granting of the waiver.
- (p) *Abatement of hazards and obstructions.* This subsection applies whether there is a permit for the gathering or not and whether the public gathering is organized or not. If any gathering on public areas or facilities creates a hazard to public safety or violates any provisions of this section, then the Town may require that the hazard or violation be promptly ended or that the gathering move to the nearest location where the risk of harm will be diminished to a reasonable level in light of the purposes of this Article. Any such direction shall be narrowly tailored to abate the risk of harm without limiting the public gathering more than reasonably necessary. Failure to obey such direction constitutes a violation of this section. A “hazard to public safety” as used in this subsection includes any condition or action that:
  - (1) Creates a hazard or obstruction to pedestrians or traffic beyond what is permitted by a public safety plan,
  - (2) Damages public facilities; or
  - (3) Would have justified denial or displacement of the event under subsection (c) of this section.
- (q) *Penalty.* Any person intentionally violating any of the provisions of this section for which no other penalty is provided by Town ordinance or state law shall be guilty of a class 3 misdemeanor. The burden of proving the application of any exception under subsection (k)(2), (3), or (4) shall be on the person asserting the exception.
- (r) *Severability.* If any portion of this Article is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Article, and such invalid provisions or portions thereof shall be severable.