

**AN ORDINANCE TO AMEND ARTICLES I AND II OF TOWN CODE CHAPTER 91  
PERTAINING TO STREETS AND SIDEWALKS**

**MOTION:**  
**SECOND:**

**WHEREAS**, the Town Council periodically reviews its ordinances to ensure they provide adequate rules and regulations that allow for the protection of the public safety and welfare; and

**WHEREAS**, the Town Council has expressed a desire to update its regulations related to snow emergencies;

**NOW THEREFORE BE IT ORDAINED** that Articles I and II of Chapter 91 of the Middleburg Town Code are amended as attached.

This ordinance shall be effective upon passage.

Adopted \_\_\_\_\_, 2016.

**Vote: Aye:**  
**Nay:**  
**Abstain:**  
**Absent:**

APPROVED:

\_\_\_\_\_  
Betsy A. Davis, MAYOR

ATTEST:

\_\_\_\_\_  
Rhonda S. North, MMC, Town Clerk

ARTICLE I  
General Regulations

**§ 91-1        Streets and sidewalk improvements required when structure constructed or use changed**

- A. As used in this section, the following terms shall have the meanings indicated:

ENTRANCE - Any vehicular access from private property to public property.

- B. Required improvements; dedication to town.

- (1) Any person who proposes to construct any structure or who intends to change any present use, whether a zoning amendment is necessary or not, on land which has frontage on a public street or on land which requires a new entrance or entrances thereto or any change in an existing entrance shall construct, at his own expense, the following improvements:

- (a) Curb, gutter and sidewalk along the entire frontage of the property proposed for use.
- (b) Concrete entrance or entrances. Where existing entrances are to be abandoned, such person shall remove such entrances and reconstruct the sidewalk and curb and gutter in its place at his expense.
- (c) Pavement for one-half (1/2) width of the street where there is no existing pavement. Where pavement exists, such person shall construct any pavement between the existing pavement and the new curb and gutter.
- (d) Storm drains and appurtenances where necessary, as determined by the Town Council.

- (2) Additionally, such person shall dedicate to the Town of Middleburg or the Commonwealth of Virginia Department of ~~Highways and~~ Transportation an area of land for the widening, maintenance or construction of such public streets and sidewalks adjoining such person's property to conform to the standards of the Virginia Department of ~~Highways and~~ Transportation.

- C. A performance bond, with approved surety, or a cashier's check shall be provided, payable to the municipality, to insure installation of the improvements required by this section, based upon the estimated cost of such improvements, as determined by the Town Council, with the time of performance determined by the Town Council.
- D. Any or all of the requirements of this section may be waived by action of the Council upon written application.

**§ 91-2 Construction of driveway to building or vacant lot**

A permit shall be obtained from the Town Council before any entrance or driveway is built to serve a building or a vacant lot. Where existing sidewalks are removed for the purpose of providing an entrance or crossover, the entrance over the sidewalk portion shall be of the same type of material as the existing adjacent sidewalk. Any deviation from this policy shall be subject to Council approval.

**§ 91-3 Approval to disturb or interfere with public rights-of-way; guaranty fee**

- A. No work of any nature which involves a disturbance of the public right-of-way or interferes with its free or unencumbered use shall be performed unless and until approval is first obtained from the Town Council. Requests for approval shall be submitted in writing and shall show compliance with all applicable ordinances regarding specifications of construction.
- B. The guaranty fee shall be in an amount equal to the estimated cost of construction as determined by the Town Council.

**§ 91-4 Barricading and lighting of excavations and construction**

Any person granted approval to excavate or work in, on or under any street or sidewalk or to construct or alter any building within the town shall, at his own expense, properly barricade and maintain proper lights for the purpose of warning pedestrians or persons traveling in vehicles or otherwise of the danger created by such excavation or construction.

**§ 91-5 Retaining walls or grading required for lots above level of sidewalks**

All property owners in the town having land or grounds abutting on public sidewalks and above the level of such sidewalk shall either provide retaining walls or grade and turf such land so that dirt will not wash down upon such sidewalks.

**§ 91-6            Removal of encroachments**

In every case of encroachment upon a street by a building, fence or other structure, whether permanent or temporary, the Town Council shall require the owner thereof or the person maintaining it to remove the same.

**§ 91-7            Restrictions on gates in fences and walls**

Every gate built in any fence or wall shall be so hung as not to open over or obstruct any sidewalk in the town.

**§ 91-8            Discharge of water from gutter or waterspout onto sidewalk prohibited**

It shall be unlawful for any person to erect or maintain a gutter or waterspout which discharges water upon a sidewalk.

**§ 91-9            Removal of snow and ice from sidewalks**

- A. It shall be the duty of every occupant or owner of property in the commercially zoned district of the town which has a sidewalk or footway of stone, brick, gravel, cinder, wood or other substance, adjoining and touching upon the same in front, rear or either side thereof, to have all snow removed from such sidewalk or footway within six (6) hours after such snow has ceased falling, unless the same has fallen during the night, in which case it shall be removed before 12:00 noon on the succeeding day. In the event that snow falls upon Sunday, such occupants or owners shall have until 12:00 noon the following Monday to comply with this section.
- B. The requirements of Subsection A above applicable to removal of snow shall apply with reference to ice or sleet on sidewalks or footways, except that, when ice or sleet cannot be removed without injury to the sidewalk or footway, such ice or sleet shall be covered within the period of time above specified with sand, ashes or some substance which will render it safe for travel.
- C. When there is not tenement on a lot, or no occupant of any tenement thereon, it shall be the duty of the owner of the lot or tenement, or his agent, to have the snow or ice removed from his sidewalk or footway as above required of the occupants of houses.
- D. In the event snow and/or ice is not removed or covered as required in Subsections A and B above, the Town Administrator or designee may remove

or cover the snow or ice to mitigate the hazardous condition and assess the cost for such removal or covering thereof against the property owner.

**§ 91-9.1 Failure to comply; cost of removal by Town**

Every charge authorized by Section 91.9(D) in excess of two hundred dollars (\$200) which has been assessed against the owner of any such property and which remains unpaid shall constitute a lien against such property. Such liens shall have the same priority as other unpaid local taxes and shall be enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1.

**§ 91-10 ——— Throwing of stones, balls or missiles Reserved**

~~No person in any street, alley or sidewalk shall throw any stone, ball or missile or any character, and no person shall throw any stone, ball or missile of any character into or across any street, alley or sidewalk.~~

**§ 91-11 Sidewalk composition**

Sidewalks constructed within the town will be of material approved by the Town Council. Details of installation will be presented to the Town Engineer for review and recommendation to the Council when deemed necessary. Grates will be utilized where trees are located in the walkways.

**§ 91-12 Violations and penalties**

Unless otherwise noted, Any person convicted of violating any provisions of this Article shall be guilty of a misdemeanor and shall be fined not more than twenty-five dollars (\$25.) for each offense.

ARTICLE II  
**Snow Emergencies**

**§ 91-13 Criteria for determining a snow emergency**

As allowed under Virginia Code Section 46.2-1302, as amended, A a snow emergency shall may be declared by the Mayor when snow begins to accumulate or ice begins to form on the streets creating hazardous driving conditions, or when the National Weather Bureau has registered a minimum snowfall of ~~two (2)~~ six (6) inches for Loudoun County based on statistics compiled at the Dulles International Airport.

**§ 91-14 Designation of snow emergency routes**

- A. Washington Street (U.S. Route No. 50) between Liberty Street and Route 626 (The Plains Road) ~~is~~ shall be designated as a snow emergency route.

**§ 91-15      Removal of snow; parking and use restrictions; removal of vehicles**

- A. ~~When a snow emergency is declared, the designated town employees shall use the best possible equipment and methods to clear the streets and highways in the town beginning with the snow emergency routes listed in this Article.~~ When a snow emergency is declared, designated Town employees shall clear all public parking lots and public parking spaces in the town beginning with the snow emergency route. Such clearing shall not commence until the snow emergency route is first cleared by the Virginia Department of Transportation.
- B. When a snow emergency is declared, it shall be unlawful for any person to park or abandon a vehicle on ~~any~~ the snow emergency route designated by this Article.
- C. It shall be unlawful for any person to obstruct or impede traffic on ~~any~~ the snow emergency route designated by this Article when such vehicle is not equipped with effective snow tires or chains.
- D. Notwithstanding any other provision of this Article, upon information that a vehicle is parked, stalled, stuck or abandoned on ~~any~~ the snow emergency route designated by the Article, the policeman on duty shall authorize immediate removal of this vehicle.
- E. The cost of removing and storing any vehicles towed or otherwise removed under Subsection D of this section shall be charged to the owner and shall be due and payable prior to the release of any such vehicle to the owner thereof.

**§ 91-16      Violations and penalties**

Any person convicted of violating any provisions of this Article shall be guilty of a misdemeanor and shall be fined not more than twenty-five dollars (\$25.) for each offense.