

**TOWN OF FREDERICA
ORDINANCE NO. 16-17**

**AN ORDINANCE AMENDING CHAPTER 365 RELATING TO
STREETS AND SIDEWALKS**

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN
OF FREDERICA IN COUNCIL MET:

Section 1. That Chapter 365 of the Frederica Code be amended
by striking the existing chapter and substituting in lieu thereof the following:

**ARTICLE I
Supervision; Maintenance; Use**

§ 365-1. Supervision.

All maintenance and repairs of public streets, alleys, sidewalks, and other public ways shall be under the supervision of the Code Enforcement Officer. Sidewalk shall mean that area from the edge of the pavement or curb to the property line or right of way line. He shall be charged with the enforcement of all ordinance provisions relating to such public places (except traffic ordinances), and is hereby authorized to enforce such ordinances.

§ 365-2. Construction.

It shall be unlawful to construct or lay any pavement on any public street, sidewalk, alley, or other public way, or to repair the same without having first secured a permit therefor. Applications for such permits shall be made to the Clerk and shall state the location of the intended pavement or repair, the extent thereof, and the person or firm who is to do the actual construction work. No such permit shall be issued except where the work will conform to the ordinances of the Town.

§ 365-3. Bond.

Each applicant shall file a Bond, with surety, to be approved by the Town Council and in an amount to be specified by the Council conditioned to indemnify the Town for any loss or damage resulting from the work undertaken or the manner of doing same.

§ 365-4. Specifications.

All streets and sidewalk pavements shall be made in conformity with specifications laid down or approved by the Council in the Land Development Ordinance.

§ 365-5. Injury to new pavements.

It shall be unlawful to walk upon or drive any vehicle or animal upon or injure any newly laid street or sidewalk pavement while the same is guarded by a warning sign or barricade, or to knowingly injure any soft or newly laid pavement.

§ 365-6. Repairs.

All sidewalk pavements shall be in good repair. The abutting owner shall be responsible for maintenance of the sidewalk under the supervision of the Code Enforcement Officer.

§ 365-7. Defects.

It shall be the duty of every municipal employee becoming cognizant of any defect in any street, alley, or sidewalk, or any obstruction thereof, to report the same to the Council as soon as possible.

§ 365-8. Obstruction.

It shall be unlawful for any person, firm, or corporation to cause, create, or maintain any obstruction on any street, alley, sidewalk, or other public way except as may be specified by ordinance or by the Council.

§ 365-9. Barricades.

Any person, firm, or corporation laying or repairing any pavement on a street, sidewalk, or other public place, or making an excavation in the same, shall maintain suitable barricades to prevent injury of any person or vehicle by reason of the work; such barricades shall be protected by a light at nighttime.

§ 365-10. Disturbing barricades.

It shall be unlawful to disturb or interfere with any barricade or lights lawfully placed to protect or mark any new pavement or excavation or opening in any public street, alley, or sidewalk.

§ 365-11. Private use.

Unless specifically authorized by ordinance or permit, it shall be unlawful for any person, firm, or corporation to use any street, sidewalk, or other public place as space for the display of goods or merchandise for sale, or to write or make any sign or advertisement on any such pavement.

§ 365-12. Encroachments.

It shall be unlawful to erect or maintain any building or structure which encroaches on any public street or property.

§ 365-13. Drains.

It shall be unlawful to obstruct any drain in any public street or property.

§ 365-14. Games.

It shall be unlawful to play any games on any streets, alley, or sidewalk or other public place where such games cause unnecessary noise or interfere with traffic or pedestrians.

§ 365-15. Planting of trees.

It shall be unlawful to plant any tree, or bush, or shrubbery on the outside of any sidewalk in the area between the sidewalk and the adjoining street or alley except when approved by the Planning Commission.

§ 365-16. Removal of trees.

It shall be unlawful to remove or cut down any tree, bush, or shrub in any such public place without having secured a permit therefor. Applications for such permits shall be made to the Clerk and shall be referred to and approved by the Council before issuance.

§ 365-17. Dangerous trees.

Any tree or shrub which overhangs any sidewalk, street, or other public place in the Town in such a way as to impede or interfere with traffic or travel, or within 10 feet of the street or within seven feet of the sidewalk level shall be trimmed by the owner of the premises abutting or of the premises on which the tree or shrub grows so that the obstruction shall cease. Any tree or limb of a tree which has become likely to fall on or across any public way or place shall be removed by the owner of the premises on which such tree grows or stands. The Council may order any such tree or shrub trimmed or remove any such tree or branch thereof so that the obstruction or danger to traffic or passage shall be done away with.

§ 365-18. Wires.

Any person or company which maintains poles and wires in the streets, alleys, or other public places shall in the absence of provision in a franchise concerning the subject, keep such wires and poles free from and away from any trees and shrubs in such places as far as may be possible, and keep all such trees and shrubs, near such wires and poles properly trimmed subject to the supervision of the Code Enforcement, so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact.

§ 365-19. Deposits on streets.

It shall be unlawful to deposit on any street any material which may be harmful to the pavement thereof, or any waste material or any glass or other articles which may do injury to any person animal, or property. Coal or other material may be deposited in streets preparatory to delivery or use, provided that such material or coal other than material to be used in actual building construction shall not be permitted to remain in such street for more than three hours. Any such material or coal shall be guarded by lights if the same remains upon any street after nighttime.

§ 365-20. Deposits on sidewalks.

It shall be unlawful to deposit on any public sidewalk any material which may be harmful to the pavement thereof, or any waste material or any glass or other articles which might cause injury to persons, animals, or property. Merchandise or other articles may be deposited on sidewalks preparatory to delivery provided that the usable width of the sidewalk is not thereby reduced to less than four feet, and provided that no such article shall remain on such sidewalk for more than three hours.

§ 365-21. Snow removal.

It shall be unlawful for snow to remain upon sidewalks within the Town for more than 12 hours after the time when the last major snow flurry has ceased, except that with snow terminating in the nighttime, if for the purpose of this section, the running of the 12-hour period shall be considered to have

started with 6:00 o'clock a.m. of the following day. Failure to comply with this section shall confer unto the Town the right and authority to remove such snow, and such non-compliance will subject the property occupant to a penalty of \$25 together with the actual cost to the Town for removal of the said snow. This Section applies solely to the occupant of the premises before which the sidewalk exists, unless such premises are unoccupied, in which case it shall apply instead to the owner or lessee thereof, as the case may be.

§ 365-22. Penalty.

Any person, firm, or corporation violating any provisions of this Article, excluding any provision wherein a specific penalty is set forth, shall be fined not less than \$25.00 nor more than \$100 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

ARTICLE II
Trees, Bushes and Shrubs.

§ 365-23. Prohibited conduct.

No property owner within the Town limits of Frederica shall permit any trees, bushes, or any type of shrubbery to block or partially block any walkways or to impair the vision on streets or at intersections.

§ 365-24. Abatement by Town.

If within five days after due notice by the Code Enforcement Officer of a violation of this ordinance, the problem has not been corrected, the property owner shall be guilty of a violation and upon conviction shall be fined not less than \$ 25.00 or more than \$100 for each offence and each day of continuing violation will be deemed a separate offence. In the event such trees, bushes, or shrubs are not trimmed or removed by the required time, the Town may cause such trees, bushes, or shrubs to be removed. If the Town incurs any expenses in removal of the violation, it may maintain a civil action suit for the recovery thereof against such property owner guilty of

ARTICLE III Sidewalk Maintenance

§ 365-25. Snow removal required.

It shall be unlawful for the owner or occupant of any premises abutting upon a sidewalk to permit or allow snow or ice to remain thereon for longer than 12 hours of daylight after it has ceased snowing, or to permit debris or other materials to accumulate at any time so that pedestrians may conveniently and safely pass.

§ 365-26. Commercial establishments.

All persons occupying commercial establishments or premises fronting on any street or public place shall keep the sidewalk immediately in front of their premises clear of debris or other materials so that pedestrians may conveniently pass, and shall not sell, display, or advertise goods or services on the sidewalk. Further, upon obtaining special permission from the Council, such persons may utilize, for the display of merchandise, areas within the sidewalk right-of-way.

§ 365-27. Grass and weeds.

It shall be unlawful for the owner or occupant of any premises abutting upon a sidewalk to permit grass or weeds to grow on the sidewalk.

§ 365-28. Abatement by Town.

In the event that any owner, occupant, or tenant of any premises, or any agent caring for or in charge of the premises within the Town shall permit grass or weeds to grow on the sidewalk, then the Council or his authorized agents shall issue a summons showing a violation of this Ordinance, said summons to be served personally or by certified mail upon the owner, occupant, or tenant of the premises, or any agent caring for or in charge of the premises. The summons shall cite the violation of this Ordinance and shall be accompanied by a letter or a copy of the relevant provisions of the Ordinance stating what corrective action must be taken and shall state the

consequences for failure to take such corrective action. If the violation is not corrected within three days from the date of personal service of the summons or within seven days from the date of mailing of the summons by certified mail, then the Town Maintenance at the direction of the Council may remove the grass or weeds growing on the sidewalk in violation of this Ordinance and charge the responsible person \$75 per hour for such work that must be done to render the property in compliance with this Ordinance. When the owner, occupant, or tenant of any premises, or any agent caring for or in charge of the premises has received summonses and fails to take corrective action, and the Town has corrected the violation in accordance with this section, then no further notification shall be necessary for the Town to take any further corrective action on any subsequent violations within the following twelve month period starting from the date of the first corrective action by the Town.

§ 365-29. Liens.

In the event that the owner, occupant, tenant, or other agent caring for or in charge of the premises is deemed to be in violation of this Ordinance and in the event that the violation is corrected in compliance with the preceding paragraph, and if the charges assessed by the Town for correcting said deficiency are not paid, then the Town, after having corrected the deficiency and violation, shall place its charges and expenses as specified in the municipal lien docket as a lien against said property and in the Lien Docket maintained by the Prothonotary, and the Town solicitor shall be directed to enforce said lien or to collect the charges imposed by the Town by any other means that he may deem desirable and most advantageous.

§ 365-30. Violations and penalties.

Any person convicted of a violation of this Ordinance, regardless of corrective actions taken, shall be punished for that violation by a fine of not less than \$25 nor more than \$100. Any such fine shall be in addition to any charges or assessments imposed upon the violator pursuant to this Ordinance. All fines imposed shall be in accordance with the minimum fine schedule set out herein.

§ 365-31. Separate offenses.

Every day that a violation of this Ordinance continues shall be considered a separate offense, for which the violator may be tried and convicted without necessity of further notice.

§ 365-32. Fine schedule.

- A. Any fine assessed pursuant to this Ordinance shall be no less than the minimum amount set out in the following schedule:
- (1) First offense: \$25.
 - (2) Second offense: \$50.
 - (3) Third and subsequent offenses: \$100.
- B. In determining the applicable minimum fine, an offense shall be considered a recurring offense only if the defendant has previously pleaded, or been found guilty of causing or permitting the same nuisance at the same location within the past 18 months, or for everyday that the violation of this Ordinance continues.

§ 365-33. Liens for unpaid finds.

Any fines imposed pursuant to this Ordinance which remain unpaid shall be placed as a lien against the property on which the violation occurred and shall be added to the next tax bill.

Repealer: All ordinances and part of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

Effective Date: This ordinance shall become effective thirty days after adoption.

ORDAINED AND ENACTED INTO THE LAW by a majority vote of the Council Members present at a regular session of Frederica Town Council, Delaware on the 19th day of October, A.D. 2016.

First Reading: September 21, 2016

Public Hearing and Second Reading: October 19, 2016

Published: OCTOBER 24, 2016

William C. Glanden

William C. Glanden

Mayor

I do hereby certify that the foregoing is a true and correct copy of the Ordinance passed by the Town Council at its meeting on October 19, 2016 at which meeting a quorum was present and voting throughout that the same is still in full force and effect.

Pats W. Finn

SYNOPSIS

This Ordinance amends Chapter 365.