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## Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Transportation
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	24VAC30-640
<b>VAC Chapter title(s)</b>	Parking on Primary and Secondary Highways
<b>Action title</b>	Adoption
<b>Date this document prepared</b>	4/25/2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

Section 46.2-1223 of the Code of Virginia provides that the Commissioner of Highways may, by regulation, regulate parking on any part of the primary and secondary systems of state highways. However, no such regulation has yet been established. Therefore, this action is to establish a new regulation to address the parking-related issues of concern to the Virginia Department of Transportation ("VDOT") that are not in conflict with localities' authority to regulate parking under other sections of the Code of Virginia. Such parking-related issues of concern to VDOT include areas along highways where parking impedes the safe or efficient flow of vehicular traffic or the proper operation of the highway. It is highly desirable that counties and towns continue to address, through their ordinances, parking issues on their local streets within their boundaries and that are otherwise maintained by VDOT. Such streets are typically classified as local (or collectors that serve a similar purpose) and primarily serve to provide access to residences or businesses (including parking for those residences and businesses). These streets typically have speed limits of 25 mph and are within a neighborhood or subdivision or in a "residence district" or "business district" of a town.

### Acronyms and Definitions

*Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

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N/A

### Statement of Final Agency Action

*Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

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The Commissioner of Highways, acting on behalf of the Virginia Department of Transportation, approved the Parking on Primary and Secondary Highways regulations on April 25, 2023.

### Mandate and Impetus

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.*

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There are no changes to previously reported information.

### Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

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Section 46.2-1223 of the Code of Virginia provides that the Commissioner of Highways "may, by regulation, regulate parking on any part of the primary and secondary systems of state highways."

### Purpose

*Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety, or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.*

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The Virginia Department of Transportation is responsible for the safe and efficient flow of traffic on state maintained highways. Preserving the safe and efficient flow of vehicular traffic entails controlling and

limiting access and the manner of use of highways including parking where the extent, character, or frequency of such parking impedes the safe or efficient flow of vehicular traffic or the proper operation of the highway.

**Substance**

*Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.*

The proposed regulation characterizes and distinguishes the specific factors that VDOT will consider in determining whether to restrict or prohibit parking, stopping or standing on a portion of a primary or secondary highway. Such factors include when the parking impedes the safe or efficient flow of vehicular traffic or the proper operation or maintenance of the highway. The regulation specifies that the restriction or prohibition shall be indicated by signs that meet the relevant standards for traffic control devices.

The regulation includes enforcement provisions that meet the requirements specified in § 46.2-1227 of the Code of Virginia.

Similarly, the regulation will clarify when VDOT will not regulate parking, such as those situations in which localities or other state agencies have authority to regulate parking pursuant to the Code of Virginia.

**Issues**

*Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

The proposed regulation provides clarity as to the prohibition or restriction of parking on primary and secondary state highways, which constitutes an advantage to the public utilizing impacted highways as well as the Commonwealth in enforcing parking prohibitions or restrictions on such highways.

**Requirements More Restrictive than Federal**

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.*

There are no changes to previously reported information.

**Agencies, Localities, and Other Entities Particularly Affected**

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.*

Other State Agencies Particularly Affected

There are no changes to previously reported information.

Localities Particularly Affected

There are no changes to previously reported information.

Other Entities Particularly Affected

There are no changes to previously reported information.

**Public Comment**

*Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency’s response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.*

No public comments were received.

**Detail of Changes Made Since the Previous Stage**

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.*

No changes have been made to the text since the previous stage was published in the Virginia Register of Regulations.

**Detail of All Changes Proposed in this Regulatory Action**

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
	24VAC30-640-10		*This section adds definitions of terms used in the regulation. It adds no new requirements to the VAC.

	24VAC30-640-20		<p>*Subsection A authorizes VDOT to restrict or prohibit parking, stopping or standing on any portion of the right-of-way of a primary or secondary highway where, in the Department's discretion, such parking, stopping or standing impedes the safe or intended use of the highway. Subsection A allows VDOT to preserve the safe and efficient flow of traffic on/operation of the systems of state highways in accord with the statutory authority and duty of the Commissioner pursuant to § 33.2-223 of the Code of Virginia.</p> <p>*Subsection B states that parking, stopping or standing is prohibited on any bridge or in any tunnel and on any bicycle lane or shared use path unless otherwise indicated by the Department. Parking is already prohibited on bridges pursuant to 24VAC30-21-30. Bicycle lanes and shared use paths are intended for the use of pedestrians and bicycles, and not motor vehicles. This will facilitate enforcement of parking in such bicycle facilities.</p> <p>*Subsection C requires that VDOT shall consider the intended use of the highway, roadway design, speed and traffic, the possibility of parking causing damage to the roadway or shoulder, and obstruction of VDOT operations when determining where to restrict parking. This language provides guidance to VDOT staff as to proper locations for restriction on parking.</p>
	24VAC30-640-30		<p>*This section specifies the mechanism by which VDOT will inform the public as to locations where parking is restricted or prohibited. Signs are required to be erected in locations where parking is restricted or prohibited, and those signs must conform to the uniform traffic control standards adopted by the Commissioner of Highways. Section 46.2-380 of the Code of Virginia requires the Commissioner to adopt uniform standards for marking and classifying state highways.</p>

	24VAC30-640-40		<p>*This section specifies how violations of the regulation are to be enforced. The language in this section is required by § 46.2-1227 of the Code of Virginia.</p>
	24VAC30-640-50		<p>*This section provides exceptions to VDOT's authority to regulate parking. The parking regulation does not apply to law-enforcement or emergency vehicles, or VDOT vehicles during the performance of their official duties. The regulation is not intended to interfere with localities' authority to regulate parking consistent with the Code of Virginia. The regulation is not intended to interfere with authority of other state agencies to regulate parking consistent with the Code of Virginia.</p> <p>Numerous sections of the Code of Virginia authorize localities to adopt ordinances regulating traffic in the jurisdiction, including 46.2-1220, 46.2-1221, 46.2-1222, 46.2-1222.1, 46.2-1222.2, 46.2-1224, and 46.2-1224.1. Additionally, sections 46.2-1228 and 46.2-1229 authorize several state entities or educational institutions to regulate parking on their properties.</p>