

Parking along the roadside at a popular local recreation area is creating traffic problems. Our town has no parking ordinance – do we have any other authority to use in dealing with these persons?

First, on state highways, 23 V.S.A. § 1101(a) prohibits motorists from parking or leaving any vehicle within the main-traveled part of a highway in “no-parking zones” as established by the State Traffic Committee and where designated by signs. Note that under 23 V.S.A. § 1008(a), the Traffic Committee may delegate the authority to regulate parking along state highways to the local legislative body.

Where parking is permitted, subsection (b) of § 1101 requires drivers of parked vehicles to leave the highway unobstructed for the passage of other cars and also to ensure a clear view in both directions. Specific fines for traffic offenses such as this are defined in the state (court) schedule of fines. Your town constable, unless his or her law enforcement authority has been restricted by the voters, has the legal authority under state law to issue a traffic complaint for any violation of § 1101. The summons and complaint form (i.e., “Traffic Complaint”) is specified in § 2303. This would be issued for a ‘traffic violation’ as defined in § 2302, and the case would be heard in the Judicial Bureau as required by § 2305. The constable’s authority under §§ 1101 and 1102 is limited to state and local public highways and does not extend to private roads.

Under 23 V.S.A. § 1102, your constable also has the authority to move (or require the driver to move) vehicles parked in violation of § 1101 or that are obstructing traffic or maintenance of the highway. If the selectboard were to adopt an ordinance under 23 V.S.A. § 1753, the vehicle owners could be required to pay towing and storage charges. Section 1753 states that a local ordinance may authorize “the removal of motor vehicles parked without authorization on publicly or privately-owned land and including . . . public, municipal, or private parking lots, drives and ways.” It goes on to say that the charges are to be determined by the selectboard, and that a lien may be imposed against the vehicle and its owner, which may be in addition to any criminal penalty. The reference to “criminal penalty” indicates that if a fine is imposed, violations of the ordinance would be prosecuted in district court.

Since violations of §§ 1101 and 1102 are violations of state law, there is no need for your town selectboard to adopt a resolution repeating the law. However, the selectboard may wish to adopt a resolution allowing parking on all roads provided that the requirements of those sections are met, so as to emphasize the legal requirements and get some local publicity about them. As noted above, the selectboard may also wish to adopt a local “towing” ordinance under § 1753 so that the town could charge for towing. The selectboard need not adopt a separate criminal fine in this ordinance unless it wishes to. The selectboard might also consider adopting a local parking ordinance so that the town could collect fines for parking violations. A local parking ordinance would require signs restricting parking, as stated in 23 V.S.A. § 1008. Under Vermont law, any contested violation of a local parking ordinance would go to district court rather than the Judicial Bureau. 4 V.S.A. §§ 441 and 1102(c); 23 V.S.A. § 2302(a)(4).

As you can see, this is a very complicated area of the law, so do not hesitate to call the VLCT Municipal Law Center if you have questions.

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