

## GENERAL PROVISIONS

2-18-16

### Chapter 1

## **GENERAL PROVISIONS**

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Chapter 1  
**GENERAL PROVISIONS**

**Sec. 1-1. How Code designated and cited.**<sup>1</sup>

The ordinances embraced in this and the following chapters and sections shall constitute and be designated The Code of the County of Fluvanna, Virginia, and may be so cited. These ordinances may also be cited as The Fluvanna County Code. (Comp. 1974, §1 - 1) (Ord. 11-18-15)

**Sec. 1-2. Definitions and rules of construction.**

In the interpretation and construction of this Code and of all ordinances of the county, the following definitions and rules of construction shall be observed, unless they are inconsistent with the manifest intent of the board of supervisors or the context clearly requires otherwise:

*Board of supervisors; board.* Whenever the term "board of supervisors" or "board" is used, it shall be construed to mean the board of supervisors of the County of Fluvanna.<sup>2</sup>

*Code of Virginia.* The words "Code of Virginia" shall mean the Code of Virginia of 1950, as amended.

*Commonwealth; state.* The words "the commonwealth," "this commonwealth," "the state" or "this state" shall mean the Commonwealth of Virginia.

*Computation of time.*<sup>3</sup> The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded.

*County.* The words "the county" or "this county" shall mean the County of Fluvanna in the Commonwealth of Virginia.

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<sup>1</sup> For state law as to authority of board of supervisors to codify its ordinances and admissibility of Code in evidence, see Code of Va., §15.2-1433.

<sup>2</sup> For similar state law, see Code of Va., §§ 15.2-604, 15.2-1201.

<sup>3</sup> For state law as to computation of time within the meaning of state statutes, see Code of Va., § 1-210.

*County administrator.* The term "county administrator" shall mean the county administrator of Fluvanna County.

*Following.* The word "following," when used by way of reference to any section or sections in this Code, shall be construed to mean next following that in which such reference is made.

*Gender.*<sup>4</sup> A word importing the masculine gender only may extend and be applied to females and to corporations as well as to males.

*Governing body.* Whenever the term "governing body" is used, it shall be construed to mean the board of supervisors of the County of Fluvanna.

*Month.*<sup>5</sup> Unless otherwise expressed, the word "month" shall be construed to mean a calendar month.

*Number.*<sup>6</sup> A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing; and a word importing the plural number only may extend and be applied to one person or thing, as well as to several persons or things.

*Oath.*<sup>7</sup> The word "oath" shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath.

*Occupant.* The word "occupant," applied to a building or land, shall mean any person who holds a written or oral lease of or actually occupies the whole or a part of such building or land, either alone or with others.

*Official time standard.*<sup>8</sup> Whenever particular hours are specified in this Code relating to the time within any such act shall or shall not be performed by any person, the time applicable shall be official standard time or daylight saving time, whichever may be in current use in the county.

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<sup>4</sup> For similar state law, see Code of Va., § 1-216.

<sup>5</sup> For similar state law, see Code of Va., § 1-223.

<sup>6</sup> For similar state law, see Code of Va., § 1-227.

<sup>7</sup> For similar state law, see Code of Va., § 1-228.

<sup>8</sup> For similar state law, see Code of Va., § 1-253.

*Or; and.* "Or" may be read as "and," and "and" may be read as "or," if the sense so requires.

*Owner.* The word "owner," applied to any property, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such property.

*Person.*<sup>9</sup> The word "person" shall include any individual, corporation, partnership, association, company, business, trust, joint venture or other legal entity.

*Preceding.* The word "preceding," when used by way of reference to any section or sections in this Code, shall be construed to mean next preceding that in which such reference is made.

*Property.* The word "property," shall mean real, personal or mixed property.

*Public grounds.* The words "public grounds" shall mean the parks and all public lands owned by the county, and those parts of public places which do not form travelled parts of streets as defined in this section.

*Road; highway.* The words "road" and "highway" shall have the same meaning as the word "street" as such word is defined in this section.

*Shall; may.* The word "shall" shall be mandatory; the word "may" is permissive.

*Sidewalk.* The word "sidewalk" shall mean any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians.

*State.* See "commonwealth" defined above in this section.

*Street.* The word "street" shall include avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto, and all other public thoroughfares in the county, and shall mean the entire width thereof between abutting property lines.

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<sup>9</sup> For state law as to definition of "person" as used in statutes, see Code of Va., §§ 1-230, 231.

*Swear; sworn.*<sup>10</sup> The word "swear" or "sworn" shall be equivalent to the words "affirm" or "affirmed" in all cases in which by law an affirmation may be substituted for an oath.

*Tense.* Words used in the past or present tense include the future as well as the past and present.

*Written; in writing.*<sup>11</sup> The words "written" and "in writing" shall include typewriting, printing on paper and any other mode of representing words, letters and figures.

*Year.*<sup>12</sup> The word "year" shall mean a calendar year.

All words, terms, etc., not defined in this section or elsewhere in this Code shall be construed as provided in the Code of Virginia.<sup>13</sup> (Comp. 1974, § 1-3) (Ord. 11-18-15)

**Sec. 1-3. Catchlines of sections.**<sup>14</sup>

The catchlines of the sections of this Code are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor, unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted. (Comp. 1974, § 1-3) (Ord. 11-18-15)

**Sec. 1-4. Severability of parts of Code.**<sup>15</sup>

If any part, section, subsection, sentence, clause or phrase of this Code or its application to any persons or circumstances is for any reason held to be unconstitutional or invalid by the final judgement or decree of a court of competent jurisdiction, such decision shall not affect the constitutionality or validity of the remainder of this Code or other

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<sup>10</sup> For similar state law, see Code of Va., § 1-250.

<sup>11</sup> For similar state law, see Code of Va., § 1-257.

<sup>12</sup> For similar state law, see Code of Va., § 1-223.

<sup>13</sup> For rules of construction of state statutes, see Code of Va., § 1-220 et seq.

<sup>14</sup> For similar state law as to sections of the Code of Virginia, see Code of Va., § 1-217.

<sup>15</sup> For state law as to severability of statutes, see Code of Va., § 1-243.

applications thereof. (Comp. 1974, § 1-4) (Ord. 11-18-15).

**Sec. 1-5. Liability of corporations, etc., and agents for violations.**

Any violation of this Code by any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization, while acting within the scope of his office or employment, shall in every case also be deemed to be a violation by such corporation, association or organization.

Any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization shall be subject and liable to punishment as well as such corporation or unincorporated association or organization for the violation by it of any provision of this Code, where such violation was the act or omission, or the result of the act, omission or order of any such person. (Comp. 1974, § 1-5)

**Sec. 1-6. Common law as to misdemeanors.<sup>16</sup>**

The common law of England with respect to misdemeanors insofar as it is not repugnant to the principles of the Bill of Rights, the constitution and laws of the commonwealth and the ordinances of the county, shall continue in full force within the county, and be the rule of decision, except as altered by the general assembly of the commonwealth or by the board of supervisors. (Comp. 1974, § 1-6) (Ord. 11-18-15).

**Sec. 1-7. Construction in event of conflict between provisions of Code, etc.**

Except as otherwise provided, in the event of conflict between provisions of this Code, or between provisions of this Code and other ordinances of the county, or between provisions of ordinances of the county, the more stringent provision shall be construed to control. (Comp. 1974, § 1-7)

**Sec. 1-8. Provisions considered as continuations of existing ordinances.**

The provisions appearing in this Code, so far as they are the same in substance as those of the ordinances included herein shall be considered as continuations thereof and not as new enactments. (Comp. 1974, § 1-8)

**Sec. 1-9. Repeal not to revive former ordinances.<sup>17</sup>**

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<sup>16</sup> For state law as to continuation of common law of England within the commonwealth, see Code of Va., §§ 1-200, 201.

When an ordinance which has repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect. (Comp. 1974, § 1-9) (Ord. 11-18-15)

**Sec. 1-9.1. Repeal not to affect liabilities; mitigation of punishment.**<sup>18</sup>

No new act of the Board shall be construed to repeal a former ordinance, as to any offense committed against the former ordinance, or as to any act done, any penalty, forfeiture, or punishment incurred, or any right accrued, or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or done, or any penalty, forfeiture or punishment so incurred, or any right accrued, or claim arising before the new act of the Board takes effect; except that the proceedings thereafter held shall conform, so far as practicable, to the ordinances in force at the time of such proceedings; and if any penalty, forfeiture, or punishment be mitigated by any provision of the new act of the Board, such provision may, with the consent of the party affected, be applied to any judgment pronounced after the new act of the Board takes effect. (Ord. 11-18-15)

**Sec. 1-10. General penalty; continuing violations.**<sup>19</sup>

(A) Wherever in this Code or in any ordinance or resolution of the county, or in any rule, regulation, notice or order promulgated by any officer or agency of the county under authority duly vested in him or it, any act is prohibited or is declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required, or the failure, neglect or refusal to do any act is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided for the violation thereof, the violation of any such provision of this Code or any such ordinance, resolution, rule, regulation, notice or order shall be punished as if such violation were a class 1 misdemeanor, provided, that the penalty for such violation shall not exceed the penalty prescribed by the Code of Virginia for like offenses.

(B) Each day any violation of this Code or any ordinance, resolution, rule, regulation, notice or order shall continue shall constitute a separate offense except as otherwise provided.

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<sup>17</sup> For similar state law applicable to statutes, see Code of Va., § 1-240.

<sup>18</sup> For similar state law, see Code of Va., § 1-239.

<sup>19</sup> For state law as to authority of board of supervisors to prescribe fines and imprisonment for violations of ordinances, see Code of Va., § 15.2-1429; as to punishment for conviction of misdemeanors, see Code of Va., § 18.2-11.

(Ord. 11-18-15)

**Sec. 1-11. Miscellaneous ordinances and resolutions not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance or resolution:

- (1) Promising or guaranteeing the payment of money by or for the county or authorizing the issuance of any bonds or any evidence of indebtedness;
- (2) Authorizing or otherwise relating to any agreement, contract or obligation assumed by the county;
- (3) Granting any franchise or right;
- (4) Appropriating funds or relating to salaries of officers or employees or an annual tax levy or budget;
- (5) Establishing magisterial districts or sanitary districts;
- (6) Relating to the school board;
- (7) Authorizing, providing for or otherwise relating to any particular street, alley or other public improvement;
- (8) Relating to annexations by municipalities;
- (9) Making any assessment;
- (10) Relating to affirmative action and other personnel policies consistent with this Code;
- (11) Relating to accounting procedures;
- (12) Designating certain roads and streets as highways for law enforcement purposes;
- (13) Adopting or amending a comprehensive plan;
- (14) Establishing articles of incorporation or bylaws for any legal entity;

- (15) The purposes of which have been accomplished;
- (16) Which is temporary, although general in effect; or
- (17) Which is special, although permanent in effect;

and all such ordinances and resolutions are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

**Sec. 1-12. Supplementation of Code.**<sup>20</sup>

(A) By contract or by county personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the board of supervisors. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete. The new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of adoption of the latest ordinance included in the supplement. Where replacement pages are prepared, a distinguishing mark or notation shall be placed on each replacement page to distinguish it from original pages and pages of other supplements.

(B) In the preparation of a supplement to this Code, all portions of the Code which have been replaced shall be excluded from the Code by the omission thereof from reprinted pages.

(C) When preparing a supplement to this Code, the codifier, meaning the person, agency, or organization authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;

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<sup>20</sup> For general law as to supplementation of codification of ordinances, see Code of Va., § 15.2-1433.

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_," inserting section numbers to indicate sections of the Code which embody the substantive sections of the ordinance incorporated into the Code; and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

(Ord. 11-18-15)