

Chapter 1 General Provisions

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Chapter 1 General Provisions

Article I Adoption of Code by Board of Supervisors

[11-17-1997]

§ 1-1. Designation and citation of Code.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated The Code of the County of Clarke, Virginia, and may be so cited. Such Code may also be cited as The Clarke County Code.

(Code 1974, § 1-1. Contents and designation of Code)

State Law references § 15.2-1433. Codification and recodification of ordinances, Code of Virginia; § 8.01-386 judicial notice of laws, Code of Virginia.

§ 1-2. Definitions and rules of construction

In the interpretation 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. All words, terms, etc., not defined in this section or elsewhere in this Code shall be construed as provided in the Code of Virginia.

Board of Supervisors, Board	Whenever the terms "board of supervisors" and "board" are used, they shall be construed to mean the Board of Supervisors of the County of Clarke.
Code of Virginia	The words "Code of Virginia" shall mean the <u>Code of Virginia of 1950</u> , as amended.
Commonwealth, state	The words "the commonwealth," "this commonwealth," "the state," and "this state" shall mean the Commonwealth of Virginia.
Computation of time	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 Saturday, Sunday, or a legal holiday, that day shall be excluded.

County	The words "the county" and "this county" shall mean the County of Clarke in the Commonwealth of Virginia.
Fee	The word "fee" shall mean a rate, charge, or license tax consistent with state requirements, that is fixed from time to time by the Board of Supervisors by resolution.
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	A word importing that masculine gender only may extend and be applied to females and to corporations as well as to males.
Health officer	The term "health officer" shall mean the public health officer of the county or representative of the state board of health serving this county.
May	The word "may" shall be permissive.
Month	The word "month" shall mean a calendar month.
Number	A word importing a singular number only may extend and be applied to several persons or things, as well as to one (1) person or thing, as well as several persons or things.
Oath	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 part of such building or land, either alone or with others.

Officers, boards, etc.	Whenever reference is made to a particular officer, department, board, commission, or other agency, such reference shall be construed as if followed by the words "of the County of Clarke, Virginia." A reference to a particular officer shall also be construed as if followed by the words "or his duly authorized representative, deputy, or assistance," subject, however to the provisions of § 15.2-1502 Employment of certain deputies and assistants; delegation of powers and duties of the Code of Virginia.
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 part of such property.
Person	The word "person" shall include a firm, partnership, association of persons, corporation, body politic, organization, or any other group acting as a unit as well as an individual.
Police Officer	The words "police officer" shall include the sheriff and his deputies, state police officers, United States marshals and their deputies, and all other law enforcement officers having authority to make arrests, but shall not include private citizens who may make arrests under the common law for felonies and breaches of the peace committed in their presence.
Preceding	The word "preceding" when used by way of reference to any section or sections of 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 traveled 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	The word "shall" shall be mandatory.
Sidewalk	The word "sidewalk" shall mean any portion of a street between the curblineline or the lateral lines of a roadway where there is no curb and the adjacent property line, intended for the use of pedestrians.
Standard time	Whenever particular hours are specified in this Code relating to the time within which any act shall or shall not be performed by any person, the time applicable shall be official standard time, or daylight savings time, whichever may be in current use in the county.
State	See "commonwealth."
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.
Swear, sworn	The words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed" in all cases in which by law an affirmation may be substituted for an oath.
Tense	Words used in the present tense shall include the future.

Written, in writing

The words "written" and "in writing" shall include any representation of words, letters, or figures, whether by printing or otherwise.

Year

The word "year" shall mean a calendar year.

(Code 1974, §1-2 Effective date of Code)

State law references - Common law, statutes and rules of construction, Code of Virginia, § 1-1 Contents and designation of Code et seq.; § 49-9 When affirmation may be made, Code of Virginia .

§ 1-3. Provisions considered as continuations of existing ordinances

The provisions appearing in this Code, so far as those of the ordinances included in this Code, shall be considered as continuations thereof and not as new enactments.

(Code 1974, § 1-4. Effect of such repeal generally; effect of revision or amendment of state Constitution)

§ 1-4. Severability

The provisions of this Code and the application thereof to any person or circumstances, which are held invalid, shall not affect the validity of other provisions or applications of this Code which can be given effect without the invalid provisions or applications.

(Code 1974, § 1-6 Effect of repeal of validating statutes)

State law reference - § 1-17.1 Severability of statutes, Code of Virginia.

§ 1-5. Catchlines of sections

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.

(Code 1974, § 1-3 Repeal of acts of a general nature)

State law reference - § 1-13.9 Headlines of sections of Code of Virginia.

§ 1-6. Classification of and penalties for violations; continuing violations

- a) Whenever in this Code, any ordinance or resolution of the county, or rule, regulation 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 a misdemeanor or an offense, the doing of any act is required, or the failure to do any act is declared to be unlawful or a

misdemeanor or an offense and no specific class of misdemeanor or penalty is provided therefore, the violation of any such provision of this Code or any such ordinance, resolution, rule, regulation or order shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500.00), by imprisonment for not more than twelve (12) months, or by both such fine and imprisonment; provided, however, that such penalty shall not exceed the penalty prescribed by general law for a like offense. (Amended by Ordinance of 06/18/91 increasing fine from \$1,000 to \$2,500.)

- b) Whenever in this Code, any other ordinance of the county, or any rule or regulation promulgated by any officer or agency of the county under authority duly vested in such officer or agency it is provided that a violation of any provision thereof shall constitute a class 1, 2, 3 or 4 misdemeanor, such violation shall be punished as follows:
 - 1) **Class 1 misdemeanor:** By a fine of not more than Two thousand Five Hundred dollars (\$2,500.00), or by confinement in jail for not more twelve (12) months, or by both such fine and confinement. (Amended by Ordinance of 6/18/91 increasing fine from \$1,000 to \$2,500.)
 - 2) **Class 2 misdemeanor:** By a fine of not more than one thousand dollars (\$1,000.00), or by confinement in jail for not more than six (6) months, or by both such fine and confinement. (Amended by Ordinance of 06/18/91 increasing fine from \$500 to \$1,000.)
 - 3) **Class 3 misdemeanor:** By a fine of not more than five hundred dollars (\$500.00).
 - 4) **Class 4 misdemeanor:** By a fine of not more than Two Hundred Fifty dollars (\$250.00). (Amended
- c) Except as otherwise provided, each day any violation of this Code or any such ordinance, rule, regulation or order continues shall constitute a separate offense.

(Code 1974, § 1-7 Acts passed between certain dates not affected)

State law references - Penalties for violation of ordinances, Code of Virginia, § 15.2-1429 therefore, Code of Virginia § 18.2-9 Classification of criminal offenses; § 18.2-11. Punishment for conviction of misdemeanor.

§ 1-7. Liability of corporations, associations, organizations and their agents, officers for violations.

- a) 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.
- b) 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.

(Code 1974, § 1-8 Notice, recognizance or process given, taken or issued before Code in force.)

§ 1-8. Effect of Code on prior offenses, rights, prosecutions, judgments.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done; any penalty or forfeiture incurred; any contract or right established or accruing; any prosecution, suit or proceeding pending or any judgment rendered on or before the effective date of this Code.

(Ordinance of 12-3-74, § 3)

§ 1-9. Miscellaneous provisions 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 contract or obligation assumed by the county;
- 3) Granting any franchise or right;
- 4) Related to particular traffic-control devices required by law, that is consistent with this Code;
- 5) Related to license or privilege taxes, that is consistent with this Code;
- 6) Related to aviation;
- 7) Related to a county agricultural district;
- 8) Related to erosion and sediment control;
- 9) Related to cable television;
- 10) Related to county inventories;
- 11) Related to social security, retirement and group insurance;
- 12) Related to the amount of tax exemptions;
- 13) Appropriating funds or related to the compensation and other benefits of officers, agents or employees or an annual tax levy or budget;

- 14) Establishing magisterial districts;
- 15) Establishing fees;
- 16) Authorizing, providing for or otherwise related to any particular street, alley, right-of-way or other public improvement or easement;
- 17) Making any assessment;
- 18) Related to zoning or the subdivision of land;
- 19) Related to electrical wiring and installments;
- 20) The purposes of which have been accomplished;
- 21) That is temporary, although general in effect; or
- 22) That is special, although permanent in effect;

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

(Ord. of 12-3-74, § 3)

§ 1-10 Effect of repeal on former ordinances.

When an ordinance that has repealed another ordinance shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

(Code 1974, § 1-5. Effect of such repeal as to persons in office)