

PART II

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS*

* **Charter References:** General provisions, § 1 et seq.; ordinances continued in force, § 37; repealing clause, § 39.

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Sec. 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 Town of Shenandoah, Virginia," and may be so cited. Such ordinances may also be cited as "The Shenandoah Town Code."

(Code 1992, § 1-1)

Annotation--Courts of record will not take judicial notice of municipal ordinances, which, like other material facts, must be pleaded and proved; but courts not of record will take judicial notice of ordinances of municipalities within their own territorial jurisdiction, *Sisk v. Town of Shenandoah*, 200 Va. 277, 105 S.E. 2d 169 (1958). Sisk v.
To

Charter References: Ordinances, § 18 et seq.

State Law References: Codification and recodification of municipal ordinances and admissibility thereof in evidence, Code of Virginia, § 15.2-1433.

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

In the construction of this Code and of all ordinances and resolutions of the town, the following rules shall be observed, unless otherwise specifically provided or unless such construction would be inconsistent with the manifest intent of the town council:

Charter. The term "Charter" shall mean the Charter of the town, as it now exists or as it may be amended in the future.

Code. Whenever the terms "Code" and "this Code" are referred to without further qualification, they shall mean The Code of the Town of Shenandoah, Virginia, as designated in section 1-1.

Computation of time. Whenever a notice is required to be given, an act to be done or a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

State Law References: Computation of time, Code of Virginia, §§ 1-13.3, 1-13.3:1.

Council; town council. Wherever the terms "the council" and "town council" are used, they shall be construed to mean the council of the Town of Shenandoah.

State Law References: "Council" defined, Code of Virginia, §§ 1-13.5, 15.2-102.

County. Wherever the terms "the county" and "this county" are used, they shall be construed to mean the County of Page in the Commonwealth of Virginia.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations, as well as to males.

State Law References: Similar provisions, Code of Virginia, § 1-13.7.

Health director. The term "health director" shall mean the health director of the county or any other public health officer having jurisdiction within the town by authority of state law, or his duly authorized representative.

Joint authority. Words purporting to give authority to three or more public officers or other persons shall be construed as giving such authority to a majority of such officers or other persons.

State Law References: Similar provisions, Code of Virginia, § 1-13.1.

May; shall. The term "may" is permissive, and the term "shall" is mandatory.

Month. The term "month" shall mean a calendar month.

State Law References: Similar provisions, Code of Virginia, § 1-13.13.

Number. 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.

State Law References: Similar provisions, Code of Virginia, § 1-13.15.

Oath. The term "oath" shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath.

State Law References: Similar provisions, Code of Virginia, § 1-13.16; when affirmation may be made, Code of Virginia, § 49-9.

Officers, agencies. Any reference to an officer, employee, department, board, commission or agency shall be construed as if followed by the phrase "of the Town of Shenandoah."

Or, and. The term "or" may be read "and," and the term "and" may be read "or," if the sense requires it.

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

Person. The term "person" shall include any individual, corporation, partnership, organization, association, company, limited liability company, business, trust, joint venture or other entity.

State Law References: Similar provisions, Code of Virginia, § 1-13.19.

Preceding; following. The terms "preceding" and "following" mean next before and next after,

respectively.

State Law References: Similar provisions, Code of Virginia, §§ 1-13.6, 1-13.23.

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

Signature; subscription. The terms "signature" and "subscription" include a mark when a person cannot write.

State; commonwealth. The terms "the state," "this state," "the commonwealth" and "this commonwealth" shall be construed as if the words "of Virginia" followed.

State Law References: "State" defined, Code of Virginia, § 1-13.26.

Statute citations. All references to the Code of Virginia shall mean the Code of Virginia, 1950, as currently amended at any time.

Street. The term "street" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the town, including the streets and alleys, and, for law-enforcement purposes, the entire width between the boundary lines of all private roads or private streets which have been specifically designated "streets" by an ordinance adopted by the town council. The term "street" shall include public avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the town; it shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the town council.

Swear; sworn. The terms "swear" and "sworn" shall be equivalent to the term "affirm" or "affirmed" in all cases in which by law an affirmation may be substituted for an oath.

State Law References: Similar provisions, Code of Virginia, § 1-13.28; when affirmation may be made, Code of Virginia, § 49-9.

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

Town. The terms "the town" and "this town" shall mean the Town of Shenandoah, Virginia.

State Law References: "Town" defined, Code of Virginia, § 1-13.29; "locality" or "local government" construed to include towns, Code of Virginia, § 15.2-102.

Written; writing; writings; in writing. The terms "written," "writing," "writings," and "in writing" shall include any representation of words, letters, symbols, numbers, or figures, whether (i) printed or inscribed on a tangible medium or (ii) stored in an electronic or other medium and retrievable in a perceivable form and whether an electronic signature authorized by Code of Virginia, § 59.1-479 et seq. is or is not affixed.

State Law References: Similar provisions, Code of Virginia, § 1-13.32.

Year. The term "year" shall be construed to mean a calendar year, and the term "year" alone shall be equivalent to the expression "year of our Lord."

State Law References: Similar provisions, Code of Virginia, § 1-13.33.

The rules of construction given in Code of Virginia, §§ 1-13.1--1-15, shall govern, so far as applicable, the construction of all other words not defined in this section.

(Code 1992, § 1-2)

State Constitution References: Definitions relating to local government, Va. Const. art. VII, § 1.

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. No section of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division.

(Code 1992, § 1-3)

State Law References: Similar provisions applicable to statutes, Code of Virginia, § 1-13.9.

Sec. 1-4. History notes.

The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the sections.

Sec. 1-5. Editor's notes and references.

The editor's notes, Charter references, cross references and state law references in this Code are not intended to have any legal effect but are merely intended to assist the user of this Code.

Sec. 1-6. Continuation of existing ordinances.

The sections appearing in this Code, so far as they are the same in substance as those of the 1992 Code, and all ordinances adopted subsequent to the 1992 Code and included in this Code shall be considered as continuations thereof and not as new enactments.

(Code 1992, § 1-4)

Sec. 1-7. Repeal not to revive former ordinances.

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

(Code 1992, § 1-5)

Sec. 1-8. Severability of parts of Code.

It is hereby declared to be the intention of the town council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code, or its application to any persons or circumstances, shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, or their application.

(Code 1992, § 1-6)

Charter References: Severability of Charter provisions, § 38.

State Law References: Severability of statutory provisions, Code of Virginia, § 1-17.1.

Sec. 1-9. Classification of and penalties for violations; continuing violations.

(a) Whenever in this Code or any other town ordinance it is provided that a violation of any section or provision thereof shall constitute a class 1, 2, 3 or 4 misdemeanor, such violation shall be punished as follows:

(1) *Class 1 misdemeanor.* Confinement in jail for not more than 12 months and a fine of not more than \$2,500.00, either or both.

(2) *Class 2 misdemeanor.* Confinement in jail for not more than six months and a fine of not more than \$1,000.00, either or both.

(3) *Class 3 misdemeanor. A fine of not more than \$500.00.*

(4) *Class 4 misdemeanor. A fine of not more than \$250.00.*

(b) Whenever in any section of this Code or in any provision of any other town ordinance any act is prohibited or is made or declared to be unlawful or an offense or misdemeanor or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided for the violation of such section or provision and such violation is not described as being of a particular class of misdemeanor, such violation shall constitute a class 1 misdemeanor and shall be punished as prescribed in subsection (a)(1) of this section.

(c) Notwithstanding any other subsection of this section or any other section of this Code, no penalty for a violation of this Code or other town ordinance shall exceed that prescribed by general law for a like offense.

(d) Each day any violation of this Code or any other ordinance shall continue shall constitute a separate offense, except where otherwise provided.

(Code 1992, § 1-7)

Charter References: Power of council to prescribe fines and other punishments for violations of ordinances, § 26; punishment for state offenses by town, § 35.

State Law References: Penalties for violation of ordinances, Code of Virginia, § 15.2-1429; bonds of persons convicted, Code of Virginia, § 15.2-1430; injunctive relief against continuing violation of ordinance, Code of Virginia, § 15.2-1432; classification of misdemeanors and punishment therefor, Code of Virginia, §§ 18.2-9, 18.2-11.

Sec. 1-10. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be printed for inclusion in this Code. In the case of repeal of chapters, sections and subsections, or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the council to make the addition or amendment a part of this Code, shall be deemed to be incorporated in this Code, so that a reference to the Code shall be understood to include such additions and amendments.

(b) Amendments to any of the sections of this Code may be made in substantially the following language: "That section _____ of The Code of the Town of Shenandoah, Virginia, is hereby amended to read as follows:" The new provisions shall then be set out

in full as enacted.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That The Code of the Town of Shenandoah, Virginia, is hereby amended by adding a section, to be numbered _____, which section reads as follows:" The new section shall then be set out in full as enacted.

Sec. 1-11. Supplementation of Code.

(a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the council. 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, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing 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;

(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 the 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.

State Law References: Authority to supplement Code, Code of Virginia, § 15.2-1433.

Sec. 1-12. Fire department, police department and rescue squad integral parts of town official safety program.

For the purposes of the Line of Duty Act (Code of Virginia, § 9.1-400 et seq.), the Shenandoah Volunteer Fire Department, Inc.; the town police force; and the town rescue squad are hereby recognized by the town council as integral parts of the town's official safety program.

(Code 1992, § 1-8)

Sec. 1-13. Relief of town officers and employees from personal liability for acts and omissions done in line of duty.

No town officer or employee charged with the enforcement of any section of this Code, while acting for the town, shall thereby render himself liable personally. The town officer or employee is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his official duties. Any suit instituted against any officer or employee because of an act performed by him in the lawful discharge of his duties and under this Code shall be defended by the town attorney until the final termination of the proceedings. In no case shall any town officer or employee or any of his subordinates be liable for costs in any action, suit or proceeding that may be instituted in pursuance of this Code, and any officer or employee of the town, acting in good faith and without malice, shall be free from liability for acts performed under any of the sections of this Code or by reason of any act or omission in the performance of his official duties in connection therewith.

(Code 1992, § 1-9)

State Law References: Notice of claims for damages for negligence, Code of Virginia, § 8.01-222; liability insurance for officers, employees, etc., Code of Virginia, § 15.2-1518.

Sec. 1-14. Town seal.

(a) The town seal shall be a corded circle within which shall be a dotted circle, and between these circles and conforming to the arcs thereof shall be the words "THE TOWN OF SHENANDOAH, VA." Within the center of the inner circle and on a horizontal plane shall be "FEB. 12," above which and following a slight upward bow shall be the word "CHARTERED." Under "FEB. 12" and following a slight downward bow shall be the date "1884."

(b) The town clerk shall be custodian of the town seal.

(Code 1992, § 1-10)

Sec. 1-15. Denial of town licenses and permits for delinquent debtors; information provided to issuing officers.

No town license or permit shall be issued or transferred to any person who is delinquent in the payment of any debt due from him to the town, whether for any tax, special assessment, license or permit fee, penalty or otherwise. The town treasurer shall keep license and permit issuing officers informed as to the names of persons who are delinquent under this section.

(Code 1992, § 1-11)

Sec. 1-16. Official plat of town.

The ordinance adopting the town map prepared by F. T. Amos, county surveyor, August 1928, is repealed and superseded by the following: The town council hereby adopts, as the official plat of the town, the F. T. English plat of the town, recorded in the office of the clerk of the circuit court of the county in deed book 21 at pages 40 and 41.

(Code 1992, § 1-12)

Editors Note: For an early plat of the town, see that of the Shenandoah Land Company, May 22, 1891, which is of record in the office of the clerk of the circuit court of Page County in D.B. No. 21, pages 40, 41. Another map, which is currently in use, is that prepared by the division of industrial development of the office of the governor, a copy of which is on file in the office of the town clerk.

Sec. 1-17. Miscellaneous ordinances not affected by Code.

- (a) Nothing in this Code or the ordinance adopting this Code shall affect any:

(1) Offense or act committed or done, any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.

(2) Prosecution, suit or proceeding pending or any judgment rendered before the effective date of this Code.

(3) Ordinance or resolution promising or guaranteeing the payment of money for the town, authorizing the issue of any bonds of the town, any evidence of the town's indebtedness or any contract or obligation assumed by the town.

(4) Right or franchise conferred by ordinance or resolution.

(5) Appropriation or budget ordinance.

- (6) Ordinance consistent with this Code levying or imposing taxes, fees or other charges.

- (7) Ordinance providing for any public improvement.

- (8) Ordinance making any assessment.

- (9) Ordinance naming, renaming, opening, altering, relocating, accepting, closing or vacating any street or alley.

- (10) Ordinance relative to position classification, salaries, wages or compensation or bonds of town officers or employees and of members and employees of town boards or commissions.

(11) Ordinance relative to a plat of a subdivision, an amendment to a zoning map, or the zoning or rezoning of specific property.

(12) Ordinance annexing territory to the town.

(13) Ordinance adopted for purposes which have been consummated.

(14) Ordinance which is temporary, although general in effect, or special, although permanent in effect.

(15) Personnel or other departmental manual.

(16) Agreement relating to sharing governmental services, including building code enforcement.

(b) 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.

(Code 1992, § 1-13)