

ROCKBRIDGE COUNTY CODE

Chapter 1

GENERAL PROVISIONS

Sec. 1-1. How Code designated and cited.

The provisions embraced in this and following Chapters, Articles and Sections shall constitute and be designated "The Code of the County of Rockbridge, Virginia," and may be so cited. Such Code may also be cited as the "County Code" or in the provisions that follow, as "this Code."

State law reference(s)--Authority of county to codify and recodify its ordinances, Code of Virginia, §15.2-1433; judicial notice of laws, Code of Virginia, §8.01-386.

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

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

Agency when used to designate a subordinate element of government shall mean and be construed as including all offices, departments, institutions, boards, commissions, and corporations of the county government and, when so specified, all offices, departments, institutions, boards, commissions, and corporations which receive or disburse county funds.

Board of supervisors, board. Whenever the words "board of supervisors," "this board" or "the board" are used, such words shall be construed to mean the government body of the County of Rockbridge, Virginia.

Code. Wherever the terms "Code" and "this Code" are used without further qualification, they shall mean the Code of the County of Rockbridge, Virginia, as designated in section 1-1.

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" and "this state" shall mean the Commonwealth of Virginia.

Computation of time. When a statute requires a notice to be given, or any other act to be done, a certain time before any motion or proceeding, there must be that time, exclusive of the day for such motion or proceeding, but the day on which such notice is given, or such act is done, may be counted as part of the time; but when a statute requires a notice to be given or any other act to be done within a certain time after any event or judgment, that time shall be allowed in addition to the day on which the event or judgment occurred.

County. “County” shall mean and be construed as if the words “of Rockbridge, Virginia” followed it.

Definitions. “Definitions” given with a chapter or article shall apply only to words or phrases used in such chapter or article unless otherwise provided.

Designee following an official of the county shall mean the authorized agent, employee or representative of such official.

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.

Highway; street; road. The words “highway,” “street” and “road” shall be construed to embrace highways, streets, avenues, boulevards, roads, alleys, lanes, viaducts, publicly maintained parking lots and all other public ways in the county.

May. The word “may” is permissive and discretionary.

Month. The word “month” shall mean a calendar month unless otherwise expressed.

Number. A word importing the singular number only, may, where the context requires, extend and be applied to several persons or things as well as to one person or thing; a word importing the plural number only, may, where the context requires, extend and be applied to one person or thing, as well as to several persons or things.

Oath. The word “oath” shall mean any form of attestation by which a person signifies that he is bound in conscience to perform an act or to speak faithfully and truthfully and includes an affirmation or declaration in cases where 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.

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 Rockbridge, Virginia.” A reference to a particular officer shall also be construed as if followed by the words “or his duly authorized deputy, assistant or representative,” subject, however, to the provisions of §15.2-1502 of the Code of Virginia.

Official time standard. Whenever particular hours are referred to, the time applicable shall be official standard time or daylight saving time, whichever may be in current use in the county.

Owner. The word “owner,” applied to a building or land, 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 building or land.

Ordinances and resolutions. The term “ordinances and resolutions” shall mean the ordinances and resolutions of the County of Rockbridge and all amendments and supplements thereto.

Person. The word “person” may extend and be applied to associations, firms, partnerships and bodies politic and corporate as well as to individuals.

Preceding, following. The words “preceding” and “following” mean next before and next after, respectively.

Personal property. The phrase “personal property” shall mean any money, goods, movable chattels, things in action, evidence or debt, all objects and rights which are capable of ownership, and every other species of property except real property.

Public place. The phrase “public place” shall mean and include any public street, road, or highway, alley, lane, sidewalk, crosswalk, or other public way, or any public resort, place of amusement, stadium, athletic field, park, playground, public building or grounds appurtenant thereto, school building or school grounds, public parking lot or any vacant lot, the elevator, lobby, halls, corridors and areas open to the public of any store, office, or apartment building or any other place commonly open to the public.

Real property. The phrase “real property” shall mean land, together with all things attached to the land so as to become a part thereof.

Registered mail. The phrase “registered mail” shall include certified mail with return receipt requested.

Shall; must. The words “shall” or “must” are mandatory.

Signature, subscription. The word “signature” or “subscription” shall mean the name of a person, mark or symbol appended by him to a writing with intent to authenticate the instrument as one made or put into effect by him.

State. See “commonwealth.”

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 past or present tense include the future as well as the past and present.

Words and phrases. The term “words and phrases” shall mean and be construed according to the common and approved usage of the language, but technical words and phrases and others that have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such meaning.

Written, in writing. The terms “written” and “in writing” shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word “year” shall mean a calendar year unless otherwise expressed.

State law reference(s)--Common law, statutes and rules of construction, Code of Virginia, §1-10 through 1-17.2; similar provisions re: computation of time applicable to state law, Code of Virginia, §1-13.3; when affirmation may be made, Code of Virginia, §49-9.

Sec. 1-3. Catchlines and headings; construction.

All designations and headings of chapters, articles, divisions and sections are intended only for convenience in arrangement and as mere catchwords to indicate the contents of such chapters, articles, divisions or sections, whether printed in boldface type or italics. They shall not be deemed or taken to be any part of title of such chapters, articles, divisions or sections; nor unless expressly so provided, shall they be so deemed upon amendment or reenactment; nor shall they be construed to govern, limit, modify, alter or in any other manner affect the scope, meaning or intent of any of the provisions of this Code.

State law reference(s)--Similar provisions applicable to state law, Code of Virginia, §1-13.9.

Sec. 1-4. Code provisions as continuance of existing ordinances.

(a) The provisions appearing in this Code, insofar as they relate to the same subject matter and are substantially the same as those ordinance provisions previously adopted by the county and existing at the effective date of this Code, shall be considered as restatements and continuations thereof and not as new enactments.

(b) No new ordinance 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 ordinance takes effect; save only that the proceedings thereafter had 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 ordinance, such provisions may, with the consent of the party affected, be applied to any judgment pronounced after the new ordinance takes effect.

Sec. 1-5. Code severability.

It is declared to be the intention of the board of supervisors that the sections, subsections, paragraphs, sentences, clauses, phrases and words of this Code are severable. If any section,

subsection, paragraph, sentence, clause, phrase or word is declared unconstitutional or otherwise invalid by the lawful judgment or decree of any court of competent jurisdiction, its unconstitutionality or invalidity shall not affect the validity of any of the remaining sections, subsections, paragraphs, sentences, clauses, phrases and words of this Code, since the same would have been enacted by the board of supervisors without and irrespective of any unconstitutional or otherwise invalid section, subsection, paragraph, sentence, clause, phrase or word being incorporated into this Code.

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

Sec. 1-6. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

- (1) Any ordinance promising or guaranteeing the payment of money by the county, or authorizing the issuance of any bonds of the county, or any evidence of the county's indebtedness, or any contract, agreement, lease, deed or other instrument or obligation assumed by the county or creating interest and sinking funds;
- (2) Containing any administrative provisions of the board of supervisors not in conflict or inconsistent with the provisions of this Code;
- (3) Establishing articles of incorporation or bylaws for any legal entity;
- (4) Any right or franchise, permit or other right granted by any ordinance;
- (5) Any personnel regulations; any ordinance establishing salaries of county officers and employees or any civil service rules;
- (6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing or vacating any street, alley or other public way in the county;
- (7) Any ordinance establishing and prescribing the street grades in the county;
- (8) Any appropriation ordinance or any ordinance levying or imposing taxes or fees;
- (9) Any ordinance providing for local improvements and assessing taxes therefor;
- (10) Any ordinance dedicating or accepting any subdivision in the county;
- (11) Any ordinance establishing the official plat of the county;
- (12) Any zoning map amendment or land use or rezoning ordinance;
- (13) Any ordinance annexing territory or excluding territory from the county;

- (14) Any ordinance prescribing traffic regulations for specific locations, prescribing through streets, parking limitations, one-way traffic, limitations on loads of vehicles or loading zones, not inconsistent with such Code;
- (15) Any ordinance calling an election;
- (16) The purposes of which have been accomplished;
- (17) Which is temporary, although general in effect; or
- (18) Which 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.

Sec. 1-7. Effect of repeal of ordinances; revival.

(a) Neither the adoption of this Code nor the repeal hereby of any ordinance of the county shall in any manner affect the prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty at the effective date due and unpaid under such ordinance, nor be construed as affecting any of the provisions of such ordinance relating to the collection of any such license or penalty or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof, required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereof appertaining shall continue in full force and effect.

(b) Whenever any ordinance repealing a former ordinance, clause or provision is repealed, such repeal shall not be construed as reviving such former ordinance, clause or provision, unless expressly provided therein.

Sec. 1-8. References include amendments and penalties; construction.

(a) Any reference in this Code to an ordinance or provision of this Code shall mean such ordinance or provision as may now exist or as hereafter amended.

(b) Any reference in this Code to chapters, articles, divisions or sections shall be to the chapters, articles, divisions and sections of this Code unless otherwise specified.

(c) Any reference to any amendment of any section of this Code containing provisions for which a penalty is provided in another section, the penalty so provided in such other section shall be held to relate to the section so amended or the amending section whether reenacted in the amendatory ordinance or not, unless such penalty is specifically repealed therein.

Sec. 1-9. Conflicting provisions.

(a) If the provisions of different chapters, articles, divisions or sections of this Code conflict with or contravene each other, the provisions of each chapter, article, division or section shall prevail as to all matters and questions growing out of the subject matter of that chapter, article, division or section.

(b) If clearly conflicting provisions are found in different sections of the same chapter, the provisions of the section last enacted shall prevail unless the construction is inconsistent with the meaning of that chapter.

Sec. 1-10. Unlawful or prohibited acts include causing, permitting, concealing.

Whenever in this Code any act or omission is made unlawful or prohibited it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

Sec. 1-11. General penalty; continuing violations.

(a) Whenever in this Code or in any ordinance of the county, or rule or 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 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, and if no specific penalty is provided for the violation thereof, the violation of any such provision of this Code or of any such ordinance, rule, regulation or order shall be punished as a Class I misdemeanor; provided, however, that where the penalty for any particular offense is limited by state statute then such limitation shall be applicable to the provisions of this Code and other ordinances of the county or rule, regulation or order as aforesaid notwithstanding the provisions of this section.

(b) Each day any violation of this Code or any such ordinance, rule, regulation or order shall continue shall constitute, except where otherwise provided, a separate offense.

(c) In addition to the penalties herein above provided, any condition caused or permitted to exist in violation of any of the provisions of this Code or any law, ordinance, resolution, rule, regulation or order of the county shall be deemed a public nuisance and may be by the county prevented, restrained, corrected or abated as provided by law. The imposition of the penalties herein prescribed shall not preclude the county from instituting appropriate civil action, including but not limited to injunction, to restrain, correct or abate a violation of this Code.

(d) The suspension or revocation of any license, permit, certificate or other privilege conferred by the county, shall not be regarded as a penalty.

State law reference(s)--Penalties for violation of county ordinances, Code of Virginia, §15.2-1429; classification of misdemeanors and punishment therefor, Code of Virginia, §§18.2-9, 18.2-11.

Sec. 1-12. Fines and costs.

(a) All fines and costs collected under the terms of this Code shall be paid over to the treasurer of the county and credited by him to the county general fund.

(b) Costs shall be taxed in prosecutions under this Code in the same amounts and in the same manner as prescribed by law in misdemeanor cases under state statutes or county ordinances.

Sec. 1-13. Issuance and service of summons in place of warrant in misdemeanor case; failure to appear separate violation.

(a) Whenever any person is arrested for a violation of any provision of this Code punishable as a misdemeanor, except as otherwise provided in Title 46.2 or §18.2-266 et seq. of the Code of Virginia, as amended, or by county ordinances, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving by such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody.

(b) Any person refusing to give such written promise to appear shall be taken immediately by the arresting or other police officer before the nearest or most accessible judicial officer or other person qualified to admit to bail having jurisdiction, who shall proceed according to provisions of §19.2-123 of the Code of Virginia, as amended.

(c) Any person who willfully violates his written promise to appear, given in accordance with this section, shall be guilty of a Class 1 misdemeanor, regardless of the disposition of, and in addition to, the charge upon which he was originally arrested.

(d) Anything in this section to the contrary notwithstanding, if any person is believed by the arresting officer to be likely to disregard a summons issued under the provisions of this section, the arresting officer shall take such person forthwith before the nearest or most accessible judicial officer or other person qualified to admit to bail in lieu of issuing the summons, who shall determine whether or not probable cause exists that such person is likely to disregard a summons, and may issue either a summons or warrant as he may determine proper.

(e) Notwithstanding the above, if any person is reasonably believed by the arresting officer to be likely to cause harm to himself or to any other person, the officer may take such person before a magistrate or other issuing authority of the county and request the issuance of a warrant.

Sec. 1-14. Supplementation of Code.

(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 passed by the board

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, when 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 that have been repealed 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 reference(s)--Supplementation of codification of ordinances, Code of Virginia, §15.2-1433.