CHAPTER 1

GENERAL PROVISIONS

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

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

State law references-Authority of County to codify and recodify its ordinances, Code of Virginia, § 15.1-37.3; judicial notice of laws, Code of Virginia, § 8.01-38.6.

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 unless the context clearly requires otherwise.

Board of supervisors; board. Wherever the term "Board of Supervisors" or "Board" is used, it shall be construed to mean the Board of Supervisors of the County of Bath, Virginia.

Code. Wherever the term "Code" or "this Code" is used without further qualification, it shall mean the Code of the County of Bath, Virginia, as designated in § 1-l.

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 Bath in the Commonwealth of Virginia.

Gender. A word importing the masculine gender 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.

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.

Joint authority. Words purporting to give authority to three (3) or more public officers or other persons shall be construed as giving such authority to a majority of such officers or other persons.

May. The word "may" shall be permissive.

Number. A word importing the singular number only may extend and be applied to several persons or things, as well as to one (1) person or thing, and a word importing the plural number only may extend and be applied to one (1) person or thing, as well to several persons or things.

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

Officers, board, 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 Bath, Virginia." A reference to a particular officer shall also be construed as if followed by the words "or his duly authorized representative, deputy assistant," subject, however, to the provisions of § 15.1-19.5 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 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. 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.

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

Section numbers. Whenever reference is made to a specific section (e.g. Sec. 1-1), without further qualification, it shall be deemed to refer to that section of this code.

Shall. The word "shall" is mandatory.

Signature or subscription includes a mark when a person cannot write.

State, Commonwealth. The words "the State" or "this State" or "the Commonwealth" shall mean the Commonwealth of Virginia.

State Code. References to the "State Code" or "Code of Virginia" shall mean the Code of Virginia (1950), as amended.

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

Tense. Words used in the present tense shall include the future.

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

State law reference-Similar provisions, Code of Virginia, § 1-13.3 et seq.

Sec. 1-3. Headlines of sections.

The headlines 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 of such sections, including the headlines, are amended or reenacted.

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

Sec. 1-4. Severability of parts of Code.

It is hereby declared to be the intention of the Board of Supervisors that the phrases, clauses, sentences, paragraphs and sections of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the 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.

Sec. 1-5. Conflicting provisions within Code.

(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. 1-6. Ordinances, etc., conflicting with Code.

The provisions of this Code shall govern over conflicts with the provisions of any existing ordinance, bylaw, rule, regulation, or order.

Sec. 1-7. 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.

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

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

Sec. 1-9. Miscellaneous 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:

(a) Any ordinance promising or guaranteeing the payment of money by or for the County or authorizing the issuance of any bonds by the County or evidencing the County's indebtedness on any contract or obligation assumed by the County;

(b) Any ordinance granting any franchise, permit or right;

(c) Any ordinance appropriating funds, making assessments or relating to an annual tax levy or budget;

(d) Any ordinance relating to salaries, compensation or bonds of County employees and officials or members of County boards or commissions;

(e) Any ordinance authorizing, providing for or otherwise relating to any public improvements;

(f) Any appropriation ordinance or any ordinance levying or imposing taxes or fees;

(g) Any ordinance dedicating or accepting any subdivision in the County;

(h) Any ordinance establishing the official plat of the County;

(i) Any zoning map amendment or land use or rezoning ordinance;

(j) Any ordinance adopted for purposes which have been consummated; or

(k) Any ordinance which is temporary, although general in effect, or 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. 1-10. Code does not affect prior offenses, rights, etc.

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

Sec. 1-11. Additions and amendments deemed incorporated in Code.

Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the Board of Supervisors to make the same a part hereof, shall be deemed to be incorporated herein, so that reference to the Code shall be understood and intended to include such additions and amendments.

Sec. 1-12. Supplementation of Code.

(a) 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, 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 catchwords, headlines and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchwords, headlines and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary, to accommodate new material and 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-Authority to supplement Code, Code of Virginia § 15.1-37.3.

Sec. 1-13. Copies of Code and supplements to be available for public inspection.

At least three (3) copies and every supplement thereto shall be kept in the office of the County Administrator and shall there be available for public inspection, during normal business hours.

State law reference-Similar provisions, Code of Virginia, § 15.1-37.3.

Sec. 1-14. Classification of and penalties for violations; continuing violations.

(a) Wherever in this Code or in any 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 or 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 than twelve (12) months, or by both such fine and confinement.

(2) *Class 2 misdemeanor*: By a fine of not more than one thousand dollars (S1,000.00), or by confinement in jail for not more than six (6) months, or by both such fine and confinement.

(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).

(b) Whenever in any provision of this Code or in any other ordinance of the County or any rule or regulation promulgated by an officer or agency of the County, under authority duly vested in such officer or agency, 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 provision and such violation is not described as being of a particular class of misdemeanor, such violation shall constitute a Class 1 misdemeanor and be punished as prescribed in subsection (a) (1) of this section.

(c) Notwithstanding any other provision of this section or any other section of this Code, no penalty shall be imposed for a violation of this Code or any other ordinance or any rule or regulation referred to in this section, which is greater than the penalty provided by State law for a similar offense.

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

State law references-Classification of misdemeanors and punishment therefor, 1950 Code of Virginia, § 18.2-9 and § 18.2-11; authority of County to provide penalties for violation of ordinances, Code of Virginia § 15.1-505.

Sec. 1-15. Taxing of costs in prosecutions; disposition of fines and costs generally.

(a) Costs shall be taxed in prosecutions under this Code and other County ordinances in the same amounts and in the same manner as prescribed by law in misdemeanor cases under State statutes.

(b) All fines and costs collected under the terms of this Code and other County ordinances shall be paid over to the Treasurer of the County and credited by the Treasurer to the general County fund, except as otherwise specifically provided.

Sec. 1-16. Adoption of state law regarding Traffic and Criminal Offenses [1]

(a) Pursuant to the authority of the Code of Virginia, Section 46.2-1313, all the provisions and requirements of the laws of the Commonwealth contained in the Code of Virginia, Title 46.2 (Regulation of Traffic), except those provisions and requirements which, by their very nature, can have no application to or within the County of Bath, and the provisions of the Code of Virginia, Sections 18.2-266 to 18.2-273 (Driving Motor Vehicles, etc., While Intoxicated), are adopted and incorporated in this section of local code by reference and made applicable within the County.

[1] Section 1-16 was considered by the Board of Supervisors after a duly advertised public hearing on July 14, 2009. On July 14, 2009, the passage of the amendment was moved by the Hon. Jon R. Trees and passed 4 in favor and 1 dissenting.

(b) Reference to "highways of the State" contained in the provisions and requirements adopted by this section shall be deemed to refer to the street, highways and other public ways within the County.

(c) The provisions and requirements referred to in subsection (a) of this section are adopted, mutatis mutandis, and made a part of this section as fully as though set forth at length in this section, and it shall be unlawful for any person in the County to violate or to fail, neglect or refuse to comply with any such provision or requirements. In no event shall the penalty imposed for the violation of any such provision or requirement exceed the penalty imposed for that offense under the State law adopted in this section.