

## **TITLE I: GENERAL PROVISIONS**

### **Chapter**

#### **10. GENERAL PROVISIONS**



## CHAPTER 10: GENERAL PROVISIONS

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### § 10.01 TITLE OF CODE.

(A) The ordinances embraced in this and the following chapters and sections shall constitute and be designated “The Code of the Town of Clarksville, Virginia,” and may be so cited. Such code may also be cited as “Clarksville Town Code.”

(B) All ordinances of a permanent and general nature, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the “code,” for which designation “code of ordinances,” or “codified ordinances” may be substituted. Code title, chapter, and section headings do not constitute any part of the law as contained in the code.

(C) All references to codes, titles, chapters, and sections are to the components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the “Traffic Code.” Sections may be referred to and cited by the designation “§” followed by the number, such as “§ 10.01.” Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

(Prior Code, § 1-1)

### § 10.02 RULES OF INTERPRETATION.

(A) *Generally.* Except as otherwise provided, the rules as given in the Code of Virginia for the construction of statutes shall as far as applicable

govern in the construction of this code and such other ordinances and resolutions as may hereafter be adopted.

(B) *Specific rules of interpretation.* The construction of all ordinances shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(1) *Acts by assistants.* When a statute, code provisions or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(2) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(3) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

### **§ 10.03 APPLICATION TO FUTURE ORDINANCES.**

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted which amend or supplement this code unless otherwise specifically provided.

### **§ 10.04 CAPTIONS.**

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

### **§ 10.05 DEFINITIONS.**

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BOARD.** The county Board of Supervisors.

**BOND.** When a bond is required, an undertaking in writing shall be sufficient.

**CODE, THIS CODE or THIS CODE OF ORDINANCES.** This code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

**COMPUTATION OF TIME.** Whenever a notice is required 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 any such motion or proceeding. but the day of which such notice is given, or such act is done, may be counted as part of the time; but when a notice is required 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.

**COUNCIL.** The Town Council of the Town of Clarksville, Virginia.

**COUNTY.** The County of Mecklenburg, 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.

**JOINT AUTHORITY.** Words purporting to give authority to 3 or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons.

**LOCAL GOVERNMENT.** The local government adopting this code of ordinances.

**LOCALITY.** The area within the boundaries of the locality as presently established or as amended by ordinance, annexation or other legal actions at a future time. The term **LOCALITY** when used in this code may also be used to refer to the governing body of the locality, and its authorized representatives.

**MAY.** The act referred to is permissive.

**MONTH.** A calendar month.

**NUMBER.** A word importing the singular number only may extend and be applied to several persons and things as well as to 1 person or thing.

**OATH.** An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**. All terms shall mean a pledge taken by the person and administered by an individual authorized by state law.

**OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT.** An officer, office, employee, commission, or department of this local government unless the context clearly requires otherwise.

**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.

**PERSON.** Extends to and includes an individual, person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty,

the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

**PRECEDING or FOLLOWING.** Next before or next after, respectively.

**SHALL.** The act referred to is mandatory.

**SIDEWALK.** Any portion of the street between the curb and gutter and the adjacent property line intended for the use of pedestrians.

**SIGNATURE or SUBSCRIPTION.** Includes a mark when the person cannot write.

**STATE.** The Commonwealth of Virginia.

**STREET.** Construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public highways in the town.

**SUBCHAPTER.** A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

**TOWN, THE TOWN or THIS TOWN.** The Town of Clarksville, in the County of Mecklenburg, State of Virginia.

**WRITTEN.** Any representation of words, letters, or figures, whether by printing or otherwise.

**YEAR.** A calendar year, unless otherwise expressed.

**§ 10.06 SEVERABILITY.**

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

**§ 10.07 REFERENCE TO OTHER SECTIONS.**

Whenever in one section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

**§ 10.08 REFERENCE TO OFFICES.**

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this local government exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

**§ 10.09 ERRORS AND OMISSIONS.**

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

**§ 10.10 PROCEDURE FOR THE PASSAGE OF ORDINANCES.**

All ordinances to be considered for passage by the Town Council shall be presented in writing, with copies to all Council members, for a first reading at a regular council meeting. At the next regular Council meeting there will be a second reading proposed ordinance following which the proposed ordinance will be eligible for passage; provided, that in the event a majority of the Council members present at any given meeting concur that an emergency situation exists, an ordinance may be passed at its first reading and declared to be in force from its passage.

(Prior Code, § 1-8)

**§ 10.11 ORDINANCES REPEALED.**

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

**§ 10.12 ORDINANCES UNAFFECTED.**

(A) All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

(B) The provisions appearing in this code, so far as they are in substance the same as the provisions of ordinances existing at the time effective date of this code, shall be considered as continuations thereof and not as new enactments.

(Prior Code, § 1-5)

**§ 10.13 EFFECTIVE DATE OF ORDINANCES.**

All ordinances passed by the legislative body requiring publication shall take effect upon adoption, unless otherwise expressly provided.

**§ 10.14 REPEAL OR MODIFICATION OF ORDINANCE.**

(A) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(B) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

**§ 10.15 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

**§ 10.16 ORDINANCES AND RESOLUTIONS IN EVIDENCE.**

A copy of any ordinance or resolution of the town certified by the Clerk of the Council, or a printed copy thereof which purports to have been printed by the authority of the Council, shall be received as prima facie evidence for any purpose for which the original ordinance or resolution could be received.

(Prior Code, § 1-13)

**§ 10.17 ISSUANCE OF WARRANT.**

For offenses committed against this code or other ordinances of the town, the Justice of the Peace, Clerk of the Police Court, or magistrate of the county or town shall issue a warrant in the name of the town against the offender or delinquent, reciting the offense, and such offender or delinquent shall be punished according to this code or other ordinances of the town.

(Prior Code, § 1-14)

**§ 10.18 PAYMENT OF COSTS.**

In all cases of violations of this code or other ordinances, resolutions, rules, regulations or orders, the person found guilty shall, in addition to the fine, pay the cost of the warrant, including commonwealth warrants, and of the officers, which shall in all cases be paid to the Town Treasurer.

(Prior Code, § 1-15)

**§ 10.19 REFUND OF FINES, BONDS AND THE LIKE UPON REVERSAL OR DISMISSAL OF CRIMINAL PROSECUTION IN CIRCUIT COURT.**

The Town Treasurer is hereby authorized and empowered, without farther action of the Town Council, to make refund to the property party of any amount deposited in the town treasury by or for such person on account of any fine paid or cash bond deposited, or a deposit of cash or securities, for any purpose in connection with any criminal prosecution by the town when such prosecution has been reversed or dismissed by the Circuit Court of Mecklenburg County or the case is otherwise terminated in such manner as to entitle any person making such deposit to have the same refunded to him or her. In the event of any appeal to the circuit court of Mecklenburg County, a certificate of the Clerk of such court to the effect that the appeal has been dismissed or terminated favorably to the defendant shall be sufficient evidence

upon which the Town Treasurer may make refund of any amount deposited with him or her in connection with such case.

(Prior Code, § 1-16)

#### **§ 10.20 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.**

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway right-of-ways, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

#### **§ 10.21 ADOPTION OF STATUTES AND RULES BY REFERENCE.**

(A) It is the intention of the legislative body that, when adopting this Code of Ordinances, all future amendments to any state or federal rules and statutes adopted by reference in this code or referenced in this code are hereby adopted by reference or referenced as if they had been in existence at the time this code was adopted, unless there is clear intention expressed in the code to the contrary.

(B) This section shall not apply to provisions of this code that impose criminal or traffic penalties.

***Statutory reference:***

*Authority, see VA Code § 1-220*

*Traffic laws; authority to adopt by reference, see VA Code § 46.2-1313*

#### **§ 10.99 GENERAL PENALTY.**

(A) Any person who violates any provision of this code or any other ordinance of the locality for which another penalty is not specifically provided, shall, upon conviction, be guilty of a Class 1 misdemeanor, and punished as set forth in division (B)(1) of this section.

(B) Whenever in this code or any other ordinance of the locality or any rule or regulation promulgated by any officer or agency of the locality, 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 \$2,500, and by confinement in jail for not more than 12 months, either or both;

(2) *Class 2 misdemeanor:* By a fine of not more than \$1,000, and by confinement in jail for not more than 6 months, either or both;

(3) *Class 3 misdemeanor:* By a fine of not more than \$500; and

(4) *Class 4 misdemeanor:* By a fine of not more than \$250.

(C) The imposition of any penalty, pursuant to this or any other provision of this code, shall not prohibit the locality from seeking equitable relief in any court of competent jurisdiction, to enjoin the violation of any provision of this code or other ordinance of the locality.

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



(E) The penalties imposed under this section shall not exceed those penalties prescribed by state law for like offenses.

***Statutory reference:***

*Penalties for violation of ordinances,*  
*see VA Code §§ 15.2-1429; 15.2-1432*  
*Penalties for misdemeanors,*  
*see VA Code § 18.2-11*

