

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

11. COURTS, FINES AND IMPRISONMENT

CHAPTER 10: GENERAL PROVISIONS

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§ 10.01 TITLE OF CODE.

(A) 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.

(B) The ordinances embraced in this and the following chapters and sections shall constitute and be designated “The Code of the Town of Irvington, Virginia” and may be so cited. Such code may also be cited as “Irvington Town 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. (1961 Code, § 1-1)

§ 10.02 RULES OF INTERPRETATION.

(A) *Generally.* Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

(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. (VA Code § 1-244) (1961 Code, § 1-5)

§ 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 an act to be done, 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.

(VA Code § 1-210)

COUNTY. The word **COUNTY** shall be construed as if the words “of Lancaster” followed it.

COUNCIL. The Town Council of the Town of Irvington.

HEALTH DIRECTOR. The Health Director of the Lancaster County Health Department or his or her authorized agent.

IN THE TOWN. Any territorial jurisdiction of which for the exercise of its regulatory power has been conferred on the town by general or special law.

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.
(VA Code § 1-222)

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.
(VA Code § 1-223)

NUMBER. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and 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.
(VA Code § 1-227)

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.
(VA Code § 1-228)

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

OR, AND. **OR** may be read **AND** and **AND** may be read **OR** if the sense requires it.

OWNER. When 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.
(VA Code § 1-230)

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

SHALL. The act referred to is mandatory.

SIDEWALK. Any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, 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. Includes public avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the town, and shall mean the entire width thereof between abutting property lines; 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.

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**.

SWEAR, SWORN. Equivalent to the word affirm or affirmed in all cases in which by law an affirmation may be substituted for an oath.
(VA Code § 1-228)

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

TOWN. The Town of Irvington in the State of Virginia.

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

YEAR. A calendar year, unless otherwise expressed.
(VA Code § 1-223)
(1961 Code, § 1-2)

§ 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.
(1961 Code, § 1-4)

§ 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 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. (VA Code § 1-243) (1961 Code, § 1-6)

§ 10.11 ORDINANCES UNAFFECTED.

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.

§ 10.12 EFFECTIVE DATE OF ORDINANCES.

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

§ 10.13 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.

§ 10.14 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.

(1961 Code, § 1-7)

Cross-reference:

Passage of ordinances, see §§ 30.15 through 30.17

§ 10.15 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.

(A) 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.

(B) 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.

(C) 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.

§ 10.16 ADOPTION OF STATUTES AND RULES BY REFERENCE.

(A) It is the intention of the legislative body that 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

§ 10.17 PROVISIONS CONSIDERED AS CONTINUATION OF EXISTING ORDINANCES.

The provisions appearing in this code, so far as they are the same as those of the 1961 Code and all ordinances adopted subsequent to the 1961 Code and included herein, shall be considered as continuations thereof and not as new enactments.

(1961 Code, § 1-3)

§ 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 six 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 misdemeanors, see VA Code § 18.2-11

Penalties for violation of ordinances, see VA Code, §§ 15.2-1429; 15.2-1432

CHAPTER 11: COURTS, FINES AND IMPRISONMENT

Section

- 11.01 Jurisdiction of County Court
- 11.02 Appeals
- 11.03 Contempt of court
- 11.04 Prosecutions under code of ordinances to be by warrant or summons; code may be cited by section number and the like
- 11.05 Payment of fines
- 11.06 Continuing offenses

§ 11.01 JURISDICTION OF COUNTY COURT.

The County Court shall have jurisdiction of and shall try all violations of this code or other ordinances of the town within the town and within one mile thereof and inflict such punishment as may be prescribed for a violation of the same.

(1961 Code, § 6-1)

§ 11.02 APPEALS.

Appeals from any judgment or conviction rendered by the County Court under the provisions of this code shall be to the Circuit Court, in the manner, and with the security required, as provided for in such appeals in the general laws of the state.

(1961 Code, § 6-2)

§ 11.03 CONTEMPT OF COURT.

The County Court, while engaged in the trial of a case, or in any judicial proceeding, shall have the same power or jurisdiction as other courts of this state to punish summarily for contempt, but in no case shall the fine exceed an amount set by Council from time to time nor the imprisonment exceed ten days, for the same contempt.

(1961 Code, § 6-3)

Statutory reference:

*Authority of judges of courts not of record to punish summarily for contempt, see
VA Code § 16.1-69.24*

§ 11.04 PROSECUTIONS UNDER CODE OF ORDINANCES TO BE BY WARRANT OR SUMMONS; CODE MAY BE CITED BY SECTION NUMBER AND THE LIKE.

Prosecutions for violations of this code shall be upon warrant or summons; and such warrant may charge the unlawful violation of any provisions of this code by a simple reference to the code section number and division, if any; and such warrant shall be construed as if the whole section charged to have been violated were set forth in the warrant.

(1961 Code, § 6-4)

§ 11.05 PAYMENT OF FINES.

Anyone against whom a fine is adjudged may be confined in jail by the order of the County Court until such fine and costs are paid; provided, that no term of imprisonment for the nonpayment of the fine and costs shall exceed 90 days. The County Court shall have the same power for extending time for the payment of fines imposed under this code, upon taking security in the same manner, as provided by state law for the collection of state fines.

(1961 Code, § 6-5)

Statutory reference:

Payment of fines imposed by courts not of record, see VA Code §§ 16.1-69.40:1 and 16.1-69.40:2

§ 11.06 CONTINUING OFFENSES.

Where any section of this code requires action on the part of a property owner, failure to comply with such section shall constitute a separate offense for each day of such failure.

(1961 Code, § 6-6)