

## **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 as the "Code of the Town of Christiansburg, Virginia," and may be so cited. Such ordinances may also be cited as the "Christiansburg Town Code."

(Code 1972, § 1-1; Code 1992, § 1-1)

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

In the construction of this Code and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Council:

Code. The term "Code" means the Code of the Town of Christiansburg, Virginia, as designated in section 1-1.

Code of Virginia. The term "Code of Virginia" means the Code of Virginia of 1950, as amended.

**State Law reference**— Designation of Code of Virginia, Code of Virginia, § 1-1.

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 a Sunday or a legal holiday, that day shall be excluded.

**State Law reference**— Similar provisions, Code of Virginia, § 1-210.

Council, town council. The terms "council" and "town council" mean the town council of the Town of Christiansburg, Virginia.

County. The terms "county" and "the county" mean the County of Montgomery in the Commonwealth of Virginia.

Delegation of authority. A provision that authorizes or requires a town officer or town employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.

Gender. A term used in the masculine gender includes feminine and neuter.

**State Law reference**— Similar provisions, Code of Virginia, § 1-216.

Health department. The term "health department" means the health department of Montgomery County, Virginia.

Health officer. The term "health officer" means the health officer of Montgomery County, Virginia.

Number. A term used in the singular includes the plural and a term used in the plural includes the singular.

**State Law reference**— Similar provisions, Code of Virginia, § 1-227.

Oath. The term "oath" means and includes an affirmation in all cases in which by law an affirmation may be substituted for an oath.

**State Law reference**— Similar provisions, Code of Virginia, § 1-228.

Officers, etc. The title of an officer, department, board or commission shall be construed as if the words "of Christiansburg, Virginia" followed it.

Person. The term "person" includes any individual, corporation, partnership, association, cooperative, limited liability company, business, trust, joint venture or other legal or commercial entity and any successor, representative, agent, agency or instrumentality thereof.

**State Law reference**— Similar provisions, Code of Virginia, § 1-230.

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

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

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

State, Commonwealth. The term "state" or "commonwealth" shall be construed as if the words "of Virginia" followed it.

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 highways by an ordinance adopted by the council.

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

**State Law reference**— Similar provisions, Code of Virginia, § 1-250.

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

Town. The term "town" shall be construed as if the words "of Christiansburg" followed it.

(Code 1972, § 1-2; Code 1992, § 1-2)

### **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.

(Code 1972, § 1-3; Code 1992, § 1-3)

**State Law reference**— Similar provisions as to statutes, Code of Virginia, § 1-217.

### **Sec. 1-4. References to chapters, articles, divisions or sections.**

All references to chapters, articles, divisions or sections are to the chapters, articles, divisions and sections of this Code unless otherwise specified.

### **Sec. 1-5. History notes.**

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

### **Sec. 1-6. References and editor's notes.**

References and editor's notes following certain sections are inserted as an aid and guide to the reader and are not controlling or meant to have any legal effect.

### **Sec. 1-7. Provisions considered as continuations of existing ordinances.**

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

(Code 1972, § 1-4; Code 1992, § 1-4)

### **Sec. 1-8. Amendments to Code; effect of new ordinances; amendatory language.**

- (a) All ordinances passed subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions may be excluded from this Code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new code by the town council.

- (b) All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

### **Sec. 1-9. Supplementation of Code.**

- (a) By contract or by town personnel, supplements to this Code shall be prepared and printed. 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 that 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 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 that 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.

### **Sec. 1-10. Severability of parts of Code.**

It is hereby declared to be the intention of the 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 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.

(Code 1972, § 1-5; Code 1992, § 1-5)

**State Law reference**— Severability as to statutes, Code of Virginia, § 1-243.

### **Sec. 1-11. Classification of, and penalties for, violations; continuing violations.**

- (a) Whenever in this Code or any other ordinances of the town or any rule or regulation promulgated by any officer, official or agency of the town under the authority duly vested in such officer, official 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 punishable as follows:

- (1) Class 1 misdemeanor: By a fine of not more than \$2,500.00 or by confinement in jail for not more than 12 months, or by both such fine and confinement.
  - (2) Class 2 misdemeanor: By a fine of not more than \$1,000.00 or by confinement in jail for not more than six months, or by both such fine and confinement.
  - (3) Class 3 misdemeanor: By a fine of not more than \$500.00.
  - (4) Class 4 misdemeanor: By a fine of not more than \$250.00.
- (b) Whenever, in any provision of this Code or in any other ordinance of the town or any rule or regulation promulgated by an officer, official or agency of the town, under authority duly vested in such officer, official 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 punishable as prescribed in subsection (a)(1) of this section.
- (c) On each day any violation of this Code or any other ordinance, rule or regulation referred to in this section shall continue, such shall constitute a separate offense and be punished as a class 1 misdemeanor, except where otherwise provided.
- (d) Any provision of this Code or other ordinance, rule or regulation to the contrary notwithstanding, no penalty, whether by fine or imprisonment, imposed for the violation of any provision of this Code or other ordinance, rule or regulation shall be in excess of the penalty established by the state for a similar offense under state law.
- (e) In this section the term "this Code" shall also mean all provisions incorporated by reference in this Code.
- (f) No misdemeanor penalty shall be deemed to restrict, in any way, the right of the town to injunctive relief.

(Code 1972, § 1-6; Code 1992, § 1-6)

**Charter reference**— Power of Council to prescribe fines and other punishments for violation of ordinances and bylaws, § 2.27.

**State Law reference**— Power of Town Council to prescribe fines or other punishment for violation of ordinances, Code of Virginia, § 15.2-1429; maximum penalty, Code of Virginia, § 15.2-1429; punishment for conviction of misdemeanor, Code of Virginia, § 18.2-11.

#### **Sec. 1-12. Construction of repealing ordinance with relation to ordinance repealed.**

No new ordinance shall be construed to repeal the former ordinance as to any offense committed against such former ordinance or as to any act done, or any penalty or punishment incurred arising before the new ordinance takes effect.

(Code 1972, § 1-14; Code 1992, § 1-12)

**Sec. 1-13. Corporate seal.**

The corporate seal of the town shall be as shown on the impression as follows:



(Code 1972, § 1-15; Code 1992, § 1-13)

**Charter reference**— Corporate seal authorized, § 1.01; Clerk's duties, § 2.28; seal affixed to bonds, § 3.19.

**Sec. 1-14. Miscellaneous ordinances not affected by Code.**

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

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;
- (2) Any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this Code;
- (3) Any ordinance or resolution promising or guaranteeing the payment of money for the town or authorizing the issue of any bonds of the town or any evidence of the town's indebtedness or any contract or obligation assumed by the town;
- (4) Any annual tax levy;
- (5) Any right or franchise conferred by ordinance or resolution of the town on any person;
- (6) Any ordinance adopted for purposes which have been consummated;
- (7) Any ordinance which is temporary, although general in effect, or special, although permanent in effect;
- (8) Any ordinance relating to the salaries of the town officers or employees, personnel policies, retirement plans or other benefits;
- (9) Any ordinance annexing territory to the town;
- (10) Any ordinance naming, renaming, opening, accepting or vacating streets or alleys in the town;
- (11) Any ordinance amending any official zoning map;

(12) Any ordinance consistent with this Code pertaining to motor vehicles or traffic regulations.

- (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, § 1-14; Ord. of 5-16-1972, § 3)