

## Chapter 1

### GENERAL PROVISIONS

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

The ordinances embraced in this and following chapters and sections shall constitute and be designated "The Code of the County of James City, Virginia" and may be so cited. These ordinances may also be cited as "The James City County Code."

**State law references**-Authority of board of supervisors to codify all of its ordinances in permanent, loose-leaf form, Code of Va., § 15.2-1433; admissibility of Code in evidence, Code of Va., § § 8-270, 15.2-1433.

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

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

*Board of supervisors.* Whenever the term "board of supervisors" is used, it shall be construed to mean the board of supervisors of James City County.

*Commonwealth; state.* The words "the commonwealth," "this commonwealth," "the state" or "this state" shall mean the Commonwealth of Virginia.

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

**State law reference**-Computation of time within meaning of state statutes, Code of Va., §§ 1-13.3 and 1-13.3.1.

*County.* The words "the county" or "this county" shall mean the County of James City in the Commonwealth of Virginia.

*County administrator.* The term "county administrator" shall mean the county administrator of James City County, Virginia.

*Following.* The word "following," when used by way of reference to any section or sections in the Code, shall be construed to mean next following that in which such reference is made.

**State law reference**-For similar state law, see Code of Va., § 1-13.6.

*Gender.* A word importing the masculine gender only may extend and be applied to females and to corporations as well as to males.

**State law reference**-For similar state law, see Code of Va., § 1-13.7.

*Month.* Unless otherwise expressed, the word "month" shall be construed to mean a calendar month.

**State law reference**-For similar state law, see Code of Va., § 1-13.13.

*Number.* A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or 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.

**State law reference**-For similar state law, see Code of Va., § 1-13.15.

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

**State law reference**-For similar state law, see Code of Va., § 1-13.16.

*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.

*Official time standard.* Whenever particular hours are specified in this Code relating to the time within which any act shall or shall not be performed by any person, the time applicable shall be official standard time or Daylight Saving Time, whichever may be in current use in the county.

*Or; and.* "Or" may be read as "and," and "and" may be read as "or," if the sense so requires.

*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.

For similar state law, see Code of Va., § 1-13.19.

*Preceding.* The word "preceding," when used by way of reference to any section or sections in this Code, shall be construed to mean next preceding that in which such reference is made.

For similar state law, see Code of Va., § 1-13.23.

*Property.* The word "property" shall mean real, personal or mixed property.

*Public grounds.* The words "public grounds" shall mean the parks and all public lands owned by the county, and those parts of public places which do not form traveled parts of streets as defined in this section.

*Road; highway.* The words "road" and "highway" shall have the same meaning as the word "street" as such road is defined in this section.

*Shall.* The word "shall" shall be mandatory.

*Sidewalk.* The word "sidewalk" shall mean 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.

*State.* See "Commonwealth."

*Street.* The word "street" shall include avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto, and all other public thoroughfares in the county, and shall mean the entire width thereof between abutting property lines.

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

For similar state law, see Code of Va., § 1-13.28.

*Written; in writing.* The words "written" and "in writing" shall include typewriting, printing on paper and any other mode of representing words, letters and figures.

*Year.* The word "year" shall mean a calendar year.

All words, terms, etc., not defined in this section or elsewhere in this Code shall be construed as provided in the Code of Virginia.

For rules of construction of state statutes, see Code of Va., § 1-13 et seq.

### **Sec. 1-3. Catchlines of sections.**

The catchlines 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 section, including its catch line, is amended or reenacted.

For similar state law as to sections of the Code of Virginia, see Code of Va., § 1-13.9.

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

If any part, section, subsection, sentence, clause or phrase of this Code is for any reason held to be unconstitutional or invalid, such decision shall not affect the constitutionality or validity of the remainder of this Code.

### **Sec. 1-5. Liability of corporations, etc., and agents for violations.**

Any violation of this Code by any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization, while acting within the scope of his office or employment, shall in every case also be deemed to be a violation by such corporation, association or organization.

Any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization shall be subject and liable to punishment as well as such corporation or unincorporated association or organization for the violation by it of any provision of this Code, where such violation was the act or omission, or the result of the act, omission or order of any such person.

**Sec. 1-6. Common law as to misdemeanors.**

The common law of England, with respect to misdemeanors, insofar as it is not repugnant to the principles of the Bill of Rights, the Constitution of the commonwealth and the ordinances of the county, shall continue in full force within the county, and be the rule of decision, except as altered by the general assembly of the commonwealth or by the board of Supervisors.

**State law reference**-For state law as to continuation of common law of England within the commonwealth, see Code of Va., § 10.

**Sec. 1-7. Construction in event of conflict between provisions of Code, etc.**

Except as otherwise provided, in the event of conflict between provisions of this Code, or between provisions of this Code and other ordinances of the county, or between provisions of ordinances of the county, the more stringent provision shall be construed to control.

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

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

**Sec. 1-9. Repeal not to revive former ordinances.**

When an ordinance which has repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

**State law reference**-For similar state law applicable to statutes, see Code of Va., § 1-17.

**Sec. 1-10. Classification of and penalties for violations; continuing violations.**

(a) Whenever in this Code or any other ordinance of the county or any rule or regulations promulgated by any officer or agency of the county, 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 \$2,500.00, 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 \$1,000.00, 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 \$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 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) above.

(c) 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. (Ord. No. 156, 6-10-85; Ord. No. 156A-7, 5-2-94)

**State law references**-Classification of misdemeanors and punishment therefor, Code of Va., " 18.2-9, 18.2-11; authority of county to provide penalties for violation of ordinances, Code of Va., § 15.2-1429.

### **Sec. 1-11. Disposition of fines imposed by county court for ordinance violations.**

The county court shall collect all fines imposed for the violation of any provision of this Code or other county ordinance and shall pay them to the treasurer, taking a receipt therefor. (1-31-63)

**State law reference**-For state law as to disposition of fines and fees imposed by county court, see Code of Va., § 16.1-69.48.

### **Sec. 1-12. Reserved.**

### **Sec. 1-13. Courthouse maintenance; court security and jail processing fees.**

(a) A fee of \$2.00 shall be assessed and imposed as part of the costs incident to each civil action and each criminal and/or traffic case in the district or circuit courts for the City of Williamsburg and County of James City. This fee shall be in addition to all other fees prescribed by law. The clerk of the court shall remit fees collected under this section to the treasurer of the county. The treasurer shall hold such funds in a separate account subject to disbursement by the board of supervisors for the construction, renovation or maintenance of the courthouse, jail or court-related facilities and to defray increases in the cost of heating, cooling, electricity and ordinary maintenance.

(b) A fee of \$10.00 shall be assessed as part of the costs incident to each criminal or traffic case prosecuted in the district or circuit courts for the City of Williamsburg and County of James City in which the defendant is convicted of a violation of any statute or ordinance. The assessment shall be collected by the clerk of the court in which the case is heard and shall be remitted to the treasurer of the county. The treasurer shall hold such funds in a separate account subject to disbursement by the board of supervisors to the county sheriff's office for the funding of courthouse security personnel and, if requested by the sheriff, equipment and other personal property used in connection with courthouse security.

(c) A processing fee of \$25.00 shall be assessed by the district and circuit courts for the City of Williamsburg and the County of James City on any individual admitted to a county, city or regional jail following conviction in such court. Such fee shall be ordered as a part of court costs collected by the clerk, deposited into the account of the county treasurer. The treasurer shall hold such funds in a separate account subject to disbursement by the board of supervisors to the sheriff's office to defray the costs of processing arrested persons into the local or regional jails.

(Ord. No. 156A-2, 7-2-90; Ord. No. 156A-3, 6-17-91; Ord. No. 156A-4, 6-15-92; Ord. No. 156A-6, 7-19-93, Ord. No. 156A-9, 6-25-02; Ord. No. 156A-10, 6-22-04; Ord. No. 156A-11, 4-24-07)

**State law reference**-Assessment for courthouse construction, renovation or maintenance as part of fees incident to criminal or traffic cases, Code of Va., § 17.1-281, § 53.1-120 and § 15.2-1613.1.