

## **PART II**

### **CODE**

#### Chapter 1

### **GENERAL PROVISIONS**

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

The ordinances embraced in this and the following chapters and sections shall constitute and be designated "The Code of the Town of Occoquan, Virginia," and may be so cited. Such ordinances may also be cited as "Occoquan Town Code."

(Code 1981, § 1-1)

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

In the interpretation and construction of this Code and of all ordinances and resolutions of the town, the following rules of construction and definitions shall be observed unless otherwise specifically provided or unless they are inconsistent with the manifest intent of the town council or the context clearly requires otherwise:

*Alley.* The term "alley" means a permanent service right-of-way providing a secondary means of access to abutting properties, which shall be construed to include, but not be limited to, rights-of-way known as Poplar Alley, Center Lane, Cooper's Alley and Hill Alley.

*Bond.* When a bond is required, an undertaking in writing with such surety, if any, as the town council may direct, shall be sufficient.

*Charter.* The term "Charter" shall mean the Charter of the town as it now exists or as it may be amended in the future.

*Code.* Whenever the term "Code" or "this Code" is referred to without further qualification, it shall mean the Code of the Town of Occoquan, Virginia, as designated in section 1-1.

*Code of Virginia.* The term "Code of Virginia" shall mean the Code of Virginia of 1950, as now or hereafter amended.

*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.

*Council.* The term "council" or "the council" or "town council" shall mean the council of the Town of Occoquan, Virginia.

*County.* The term "county" or "the county" shall mean the County of Prince William, Virginia.

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

*Gender.* A word importing the masculine gender only may extend and be applied to the feminine and neuter genders as well as to the masculine gender.

*Health department.* The term "health department" shall mean the health department of Prince William County or the duly authorized agent of such department.

*Health officer.* The term "health officer" shall mean the health director of the Prince William County Health Department, or his duly authorized agent.

*In the town.* The term "in the town" shall mean any territorial jurisdiction for which the exercise of its regulatory power has been conferred on the town by public or private law.

*May.* The term "may" shall be permissive.

*Month.* The term "month" shall mean a calendar month.

*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.

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

*Occupant or tenant.* The term "occupant" or "tenant" applied to a building or land shall mean any person who holds a written or oral lease of or actually occupies the whole or part of such building or land, either alone or with others.

*Officers, agencies.* Whenever a reference is made to a particular officer, employee, department, board, commission or agency, such reference shall be construed as if followed by the words "of the Town of Occoquan, Virginia."

*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 United States Eastern Standard Time, or Daylight Saving Time, whichever may be in current use in the town.

*Owner.* The term "owner," applied to a building or land, 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 building or land.

*Person.* The term "person" shall include any individual, firm, corporation, partnership, association, company, business, trust, joint venture, organization or other legal entity, by whatever term customarily known.

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

*Property.* The term "property" shall include any real and personal property and any right or interest therein.

*Public grounds.* The term "public grounds" shall mean the parks and all public lands owned by the town, and those parts of public places which do not form traveled parts of streets.

*Shall.* The term "shall" indicates that an action is mandatory.

*Sidewalk.* The term "sidewalk" shall mean any portion of a street between the curblin, or the lateral lines of a roadway where there is no curb, and the adjacent right-of-way or easement line intended for the use of pedestrians.

*Signature, subscription.* The terms "signature" and "subscription" shall include a mark when the person cannot write, his name being written near it and being witnessed by a person who writes his own name as a witness.

*State.* The term "state," "the state," "commonwealth" or "the commonwealth" shall mean the Commonwealth of Virginia.

*Street.* The term "street" shall include avenues, boulevards, highways, roads, bridges and the approaches thereto and all other public thoroughfares, but not alleys, in the town, and shall mean the entire width thereof between abutting property lines.

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

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

*Town.* The term "town" or "the town" shall mean the Town of Occoquan, in Prince William County, Virginia.

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

*Year.* Unless otherwise expressed, the term "year" shall be construed to mean a calendar year; and the term "year" alone shall be equivalent to the expression "year of our Lord."

(Code 1981, § 1-2)

**Sec. 1-3. Provisions considered as continuations of existing ordinances.**

The provisions appearing in this Code shall be considered as continuations of the previously enacted ordinances of the town and not as new enactments.

(Code 1981, § 1-3)

**Sec. 1-4. Effect of repeal of ordinances.**

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect nor any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed.

(Code 1981, § 1-4)

**Sec. 1-5. Severability of parts of Code.**

It is declared to be the intention of the town 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, or its application to any persons or circumstances, shall be declared unconstitutional or otherwise 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, or their application.

(Code 1981, § 1-5)

**Sec. 1-6. Section catchlines and other headings.**

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. No provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division.

(Code 1981, § 1-6)

**Sec. 1-7. History notes.**

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

**Sec. 1-8. Editor's notes and references.**

The editor's notes, Charter references, cross references and state law references in this Code are not intended to have any legal effect but are merely intended to assist the user of this Code.

**Sec. 1-9. Certain ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance:

- (1) Promising or guaranteeing the payment of money by or for the town or authorizing the issuance of any bonds or any evidence of indebtedness;
- (2) Authorizing or otherwise relating to any contract;
- (3) Granting any franchise or right;
- (4) Appropriating funds, relating to any annual budget, or imposing any tax that is consistent with this Code;
- (5) Establishing fees that are consistent with this Code;
- (6) Authorizing, providing for or otherwise relating to any public improvement;
- (7) Making any assessment;
- (8) Establishing, extending or contracting the corporate limits of the town;
- (9) The purposes of which have been accomplished;
- (10) Which is temporary, although general in effect;
- (11) Which is special, although permanent in effect;
- (12) Pertaining to zoning map amendments or subdivision plats; and all such ordinances are 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 acts, offenses or rights.**

Nothing in this Code or in the ordinance 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, before the effective date of this Code.

**Sec. 1-11. Amendments to Code.**

(a) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section \_\_\_\_\_ of The Code of the Town of Occoquan, Virginia (or the Occoquan Town Code), is hereby amended to read as follows: . . . ." The new provisions shall then be set out in full as desired.

(b) In the event a new section not heretofore existing in the Code is to be added, the following language shall be used: "That The Code of the Town of Occoquan, Virginia (or the Occoquan Town Code), is hereby amended by adding a section, to be numbered \_\_\_\_\_, which said section reads as follows: \_\_\_\_\_." The new section shall then be set out in full as desired.

(c) All sections, divisions, articles, chapters or other provisions desired to be repealed shall be specifically repealed by section, division, article or chapter number, as the case may be.

### **Sec. 1-12. Supplementation of Code.**

(a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the town council. 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 their omission 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 such 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.

**State law reference(s)**--Authority to supplement Code, Code of Virginia, § 15.2-1433.

**Sec. 1-13. General penalty; continuing violations; classification of offenses.**

(a) Whenever in this Code or the ordinances of the town any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required, or the failure to do any act is made or declared to be unlawful or an offense or a misdemeanor, the violation of any such provision of this Code or the ordinances of the town shall be deemed to be a misdemeanor and shall be punished as follows:

- (1) Whenever a misdemeanor is declared to be a class 1 misdemeanor, such misdemeanor shall be punished by confinement in jail for not more than 12 months or a fine of not more than \$2,500.00, either or both.
- (2) Whenever a misdemeanor is declared to be a class 2 misdemeanor, such misdemeanor shall be punished by a fine of not more than \$1,000.00 or confinement in jail for not more than six months, either or both.
- (3) Whenever a misdemeanor is declared to be a class 3 misdemeanor, such misdemeanor shall be punished by a fine of not more than \$500.00.
- (4) Whenever a misdemeanor is declared to be a class 4 misdemeanor, such misdemeanor shall be punished by fine of not more than \$250.00.
- (5) Whenever punishment for a misdemeanor is specifically prescribed by this Code or a town ordinance without specification as to the class of the misdemeanor, such misdemeanor shall be punished according to the provisions of this Code or such ordinance.

(b) Whenever the penalty for a misdemeanor is prescribed by stating that the misdemeanor is punishable as provided for in this section, or whenever no specific penalty is provided for a misdemeanor, the misdemeanor shall be deemed to be a class 1 misdemeanor.

(c) Such penalties shall not exceed the penalties prescribed by general law for a like offense.

(d) Except where otherwise provided, each day any violation of this Code or the ordinances of the town shall continue shall constitute a separate offense.

(Code 1981, § 1-7)

**Charter reference(s)**--Punishment for violation of ordinances, § 17.

**Sec. 1-14. Collection and disposition of fines.**

All fines and penalties imposed under this Code or the ordinances of the town shall be for the use of the town, except as elsewhere provided. Fines may be collected by execution returnable within 30 days after the date of issue. The officer levying such execution shall sell the property upon which a levy has been made at auction, for cash, at some public point within the town, after advertising the time and place of such sale for ten days by posting notices at three conspicuous places within the town.

(Code 1981, § 1-8)

**Sec. 1-15. Fee charged for passing bad checks to town.**

Every person who shall utter, publish or pass any check or draft to the town in payment of taxes or any other sums due that is subsequently returned for insufficient funds or because there is no account, or the account is closed, shall pay to the town for each such check or draft a fee of \$35.00 in addition to the tax or other sum due and for which the check or draft was uttered, published or passed. Such fees shall be collectible and disposed of as all other fines and penalties.

(Code 1981, § 1-9; Ord. O-2006-02)

**State law reference(s)**--Authority for above section, Code of Virginia, § 15.2-106.

**Sec. 1-16. Right of entry for purposes of inspection.**

Whenever any officer or employee of the town or of the state is required or authorized by statute, the provisions of this Code, or any ordinance or rules and regulations or orders issued under this Code, in order to carry out his duties under this Code, to enter any premises or vehicle for the purpose of making an inspection or anything contained in such premises or inspection, such officer or employee shall have the right to enter any such premises or vehicle at any reasonable time in pursuance of such duties.

(Code 1981, § 1-10)

**Sec. 1-17. Violations of rules, regulations, orders.**

Except as otherwise provided in this Code, the violation of any rule, regulation or order promulgated by any officer or agency of the town under authority vested in him or it by law, the provisions of this Code, or any ordinances or resolution shall be unlawful.

(Code 1981, § 1-11)

**Sec. 1-18. Liability of organizations and agents for violations.**

(a) 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 that office or employment, shall in every case also be deemed to be a violation by such corporation, association or organization.

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

(Code 1981, § 1-12)