

AMHERST TOWN CODE

PART II

THE CODE

CHAPTER 1

GENERAL PROVISIONS

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

The ordinances embraced in this and the following chapters and sections shall constitute and be designated "The Code of the Town of Amherst, Virginia," and may be so cited. Such Code may also be cited as "Amherst Town Code." (Code 165, Sec. 1-1.)

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

In the construction of this Code, and of all ordinances and resolutions of the town, the following rules shall be observed, unless otherwise specifically provided or unless such construction would be inconsistent with the manifest intent of the town council:

And; or. "And" may be read "or", and "or" may be read "and", if the sense requires it.

*Computation of time.*² Whenever a notice is required to be given or an act to be done or a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is to be done shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

Council; town council. Whenever the term "council" or "town council" is used, it shall be construed to mean the council of the Town of Amherst.

County. The term "the county" or "this county" shall be construed as if the words "of Amherst" followed it.

*Gender.*³ 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.

Health director; health officer. The terms "health director" or "health officer" shall mean the health

¹For state law as to codification and recodification of municipal ordinances, and admissibility thereof in evidence, see Code of Va., Sec. 15.2-1433.

²For state law as to computation of time, see Code of Va., Sec. 1-13.3.

³For similar state law relating to construction of statutes, see Code of Va., Sec. 1-13.7.

AMHERST TOWN CODE

director of the Amherst County health department or any other public health officer having jurisdiction within the town by authority of state law, or his duty authorized representative.

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.

May; shall. The word "may" is permissive, and the word "shall" is mandatory.

Month. The word "month" shall mean a calendar month.

*Number.*⁴ 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.

*Oath.*⁵ 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.

Owner. The word "owner", applied to any property, shall include any part owner, joint tenant or tenant by the entirety of the whole or a part of such property.

*Person.*⁶ The word "person," shall extend and be applied to associations, firms, partnerships and bodies politic and corporate as well as to individuals.

*Preceding, following.*⁷ The words "preceding" and "following" mean before and next after, respectively.

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.

Signature; subscription. "Signature" or "subscription" includes a mark when a person cannot write.

State; commonwealth. The terms "the state", "this state," "the commonwealth" and "this commonwealth" shall be construed as if the words "of Virginia" followed.

Statute citations. All citations and references to the Code of Virginia, 1950, as amended and currently in effect.

Street. The word "street" shall include public avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all public thoroughfares in the town, and shall mean the entire

⁴For similar state law relating to construction of statutes, see Code of Va., Sec. 1-13.7.

⁵For similar state law relating to construction of statutes, see Code of Va., Sec. 1-13.16.

⁶For state law definition of "person," see Code of Va., Sec. 1-13.-19.

⁷For similar state law relative to statutes, see Code of Va., Subsections 1-13.6, 1-13.23.

AMHERST TOWN CODE

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.

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.

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

Town. The words "the town" shall mean the Town of Amherst in the Commonwealth of Virginia. The words "in the town" shall mean any territorial jurisdiction of which for the exercise of its regulatory power has been conferred on the town by general or special law.⁸

Written. "Written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word "year" shall be construed to mean a calendar year; and the word "year" alone shall be equivalent to the expression of "year of the Lord".

Other words. The rules of construction given in sections 1-13.1 to 1-15, Code of Virginia, shall govern so far as applicable, the construction of all other words not defined in this section. (Code 1965, Sec. 1-2.)

Sec. 1-3. Catchlines of sections.⁹

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 1965, Sec. 1-4.)

Sec. 1-4. Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same or substantially the same as those of the 1965 Code and all ordinances adopted subsequent to the 1965 Code and included herein, shall be considered as continuations thereof and not as new enactments.

Sec. 1-5. 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. (Code 1965, Sec. 1-5.)

⁸For charter provisions granting certain extraterritorial powers to the town, see Char., art. IV, Sub. 1, subsec. (9); art. V, Sec 1, subsecs. (1), (3), (4), (5), (6); art. VI, Sec. 1, subsec. (2); art. VIII, Sec. 1, subsec. (3)

For state law as to extraterritorial powers of towns, see Code of Va. Secs 19.2-250, 15.2-2029.

⁹For similar state applicable to statutes, see Code of Va., Sec. 1-13.9.

Sec. 1-6. Severability of parts of Code.

It is hereby 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 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 1965, Sec. 1-3.)

Sec. 1-7. Application of provision of Code, etc., reference to peace, good order, etc., within mile of corporate limits.¹⁰

The provisions of this Code and other ordinances of the town, with reference to peace, good order and public safety, are hereby declared to be the law within one mile from the corporate limits of the town, or any violation thereof shall be punished in conformity with sections of this Code as applicable. (Code 1965, Sec. 1-6.)

Sec. 1-8. General penalty; continuing violation.¹¹

Wherever in the Charter, this Code or in any ordinance or resolution of the town or any rule, regulation, notice or order promulgated by any officer or agency of the town under authority duly vested in him or it, any act is prohibited or is declared to be unlawful or a misdemeanor or the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor, and no specific penalty is provided for the violation thereof, the violation of any such provision of the Charter, this Code or of any such ordinance, resolution, rule, regulation, notice or order shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding twelve months, or both. Each day any violation of the Charter, this Code or any such ordinance, resolution, rule, regulation, notice or order shall continue shall constitute, except where otherwise provided, a separate offense.

¹⁰For charter provisions granting certain extraterritorial powers to the town, see Char., art. IV, Sec. 1, subsec. (9); art. V, Sec. 1, subsecs (1), (3), (4), (5), (6); art VI, Sec. 1, subsec. (2); art. VIII, Sec. 1, subsec. (3).

For state law as to extraterritorial powers of towns, see Code of Va., Sec 15.2-2724, 15.2-2727.

¹¹For charter provisions as to penalties for violation of charter provisions, ordinances, rules and regulations, see Char., Art. IX, Sec. 1, subsec. (27).

AMHERST TOWN CODE

Sec. 1-9. Town seal.¹²

The town seal shall be:



Sec. 1-10. Nonliability of enforcement personnel for acts in line of duty.

Any council member, mayor or any other officer or employee of the town or any member of the board of zoning appeals or the planning commission charged with the enforcement of this Code or the Zoning Ordinance or the Subdivision Ordinance, acting for the town in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any action, suit or proceeding brought against any town officer or employees or against any member of the board of zoning appeals or the planning commission because of such act performed by him in the enforcement of any provision of this Code or other ordinances of the town shall be defended by the town attorney or other attorney with approval of the town council at the town's expense until final determination of the case.

It is the intent of this section for the town to bear all costs in case an officer or employee of the town or a member of the board of zoning appeals or the planning commission is found to be liable.

¹²For charter provisions as to authority to town to adopt a seal by ordinance, see Char., art. I, Sec. 1. As to clerk of the council being custodian of town seal, see Char., art. III, Sec. 1, subsec. (16).