

PART II

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

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

The ordinances embraced in the following chapters and sections of this Code shall constitute and be designated the "Code of Ordinances, Town of Blacksburg, South Carolina," and may be so cited.

(Code 1991, § 1-1)

State law reference—Codification required, S.C. Code 1976, § 5-7-290.

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

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

And, or. The term "and" may be read as "or," and the term "or" may be read as "and," where the sense requires it.

Bond. When bond is required, an undertaking in writing shall be sufficient.

Code. Whenever the term "Code" is used in this Code it means the Code of Ordinances of the Town of Blacksburg, South Carolina.

Computation of time. The time within which an act is to be done shall be computed by excluding the first day and including the last; provided, however, that if the last day of the period so computed is a Saturday, a Sunday, or a legal holiday, such day shall be excluded and the time period shall run until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

Council, mayor and councilmembers. The term "council" or "mayor and councilmembers" means the council of the Town of Blacksburg, South Carolina.

County. The term "county" means the County of Cherokee, State of South Carolina.

Delegation of authority. Whenever a provision appears in this Code requiring or authorizing the head of a department or other officer of the city to do some act or perform some duty, it shall be construed to authorize such department head or other officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision specifically designate otherwise.

Gender. Words importing the masculine gender shall include the feminine and neuter.

State law reference—Similar provisions, S.C. Code 1976, § 2-7-30.

In the town. The term "in the town" means and includes any territory, jurisdiction of which for the exercise of its regulatory power has been conferred on the town by public or private law.

Interpretation. In the interpretation and application of any provisions of this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety,

comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provisions imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

Joint authority. All words giving joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Minor. The term "minor" means any person under the age of 18 years, unless otherwise specifically provided.

State law reference—"Minor" defined, S.C. Code 1976, § 15-1-320.

Month. The term "month" means a calendar month.

Municipality. The term "municipality" shall designate the Town of Blacksburg, South Carolina.

Number. Words used in the singular number include the plural and the plural shall include the singular number.

Oath, swear, sworn. 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, and in such cases, the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

Occupant. The term "occupant" applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

Officers. Whenever the title of an officer is given it shall be construed as though the words "of the Town of Blacksburg" were added.

Owner. The term "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, or joint tenant, of the whole or a part of such building or land.

Person. The term "person" shall include a corporation, firm, partnership, association, organization or other group acting as a unit, as well as an individual.

Personal property. The term "personal property" means and includes every species of property covered by this term under the state commercial code.

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

Property. The term "property" means and includes real and personal property.

Real property. The term "real property" means and includes lands, tenements and hereditaments.

State law reference—Similar provisions, S.C. Code 1976, § 15-1-30.

Roadway. The term "roadway" means that portion of a street improved, designed or ordinarily used for vehicular travel.

Shall, may. The term "shall" is mandatory; "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 adjacent property line intended for the use of pedestrians.

Signature or subscription. The term "signature" or "subscription" means and includes a mark when the person cannot write, his name being written near it.

State. The term "the state" or "this state" means the State of South Carolina.

Statute references. Whenever reference is made, for example, to S.C. Code 1976, § 44-1-160, it shall be construed to refer to the Code of Laws of South Carolina 1976, § 44-1-160, as amended, or whatever section is to be cited.

Street. The term "street" means and includes avenue, boulevards, highways, roads, alleys, lanes, viaducts, bridges, 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 council.

Tenant. The term "tenant" applied to a building or land, means 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.

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

Town. Whenever the terms "the town" or "this town" are used, they shall be construed as if the words "of Blacksburg, South Carolina" followed them.

Writing, written. The terms "writing" and "written" means and includes printing and any other mode of representing words and letters.

Year. The term "year" means a calendar year.
(Code 1991, § 1-2)

Sec. 1-3. Provisions considered as continuation of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of the 1991 Code and all ordinances adopted subsequent thereto and included herein shall be considered a continuation thereof and not as new enactments. All statutes or ordinances not previously codified will be considered as adopted as of the date of the adoption of this Code and shall become effective upon the date provided in the ordinance adopting this Code.
(Code 1991, § 1-3)

Sec. 1-4. Certain ordinances, rights, etc., not affected by Code.

- (a) Nothing in this Code or the ordinance adopting this Code shall affect any ordinance:
 - (1) Promising or guaranteeing the payment of money for the town, or authorizing the issuance of any bonds of the town or any evidence of the town's indebtedness, or any contract or obligations assumed by the town;

- (2) Containing any administrative provisions of the council not in conflict or inconsistent with the provisions of this Code;
- (3) Prescribing rates for town utility services;
- (4) Granting any right or franchise and establishing any rates therefor;
- (5) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the town;
- (6) Making any appropriation;
- (7) Levying or imposing taxes, not inconsistent with this Code;
- (8) Establishing or prescribing grades in the town;
- (9) Providing for local improvements and assessing taxes therefor;
- (10) Dedicating or accepting any plat or subdivision in the town;
- (11) Adopting, extending or contracting the boundaries of the town;
- (12) Prescribing the number, classification, or compensation of any town officers, employees or agents, not inconsistent herewith;
- (13) Pertaining to zoning or subdivision regulations;
- (14) Adopted after December 1, 2006;
- (15) Any other ordinance, or part thereof, which is not of a general and permanent nature.

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. Such ordinances are on file in the office of the clerk-treasurer.

(b) Nothing in this Code or 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.

(Code 1991, § 1-4)

Sec. 1-5. Violations of rules, regulations and orders.

Except as otherwise provided in this Code, the violation of any rules, regulations or orders promulgated by any officer or agency of the town under authority vested in him or it by law or by the provisions of this Code or any ordinance or resolution, shall be unlawful.

(Code 1991, § 1-5)

Sec. 1-6. Liability of corporations, etc., 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 his 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 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.

(Code 1991, § 1-6)

Sec. 1-7. Effect of repeal or expiration of ordinance.

(a) The repeal of an ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued, any offense committed, any penalty or punishment incurred or any proceeding commenced before the repeal took effect or the ordinance expired.

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

(Code 1991, § 1-7)

Sec. 1-8. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of such sections, not 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 1991, § 1-8)

Sec. 1-9. Parenthetical and reference matter.

The matter in parentheses at the ends of sections is for information only and is not a part of this Code. Citations to the 1991 Code of the town (Code 1991) indicate only the source; and the text may or may not be changed by this Code. Reference matter not in parentheses is for information only and is not a part of this Code.

(Code 1991, § 1-9)

Sec. 1-10. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances passed subsequent to this Code, which amend, repeal or in any way affect this Code, when numbered in accordance with the numbering system of this Code and printed or typed for inclusion herein, shall, as numbered and printed or typed or omitted, in the case of repeal, 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 council.

(b) 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. Such amendments may be in the following language: "That section _____ of the Code of Ordinances, Town of Blacksburg, South Carolina, is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.

(c) If a new section not heretofore existing in the Code is added, the following language may be used: "That the Code of Ordinances, Town of Blacksburg, South Carolina, is hereby amended by adding a section, to be numbered _____, which section shall read as follows:" The new section may then be set out in full as desired.

(d) 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.

(Code 1991, § 1-10)

Sec. 1-11. 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 passed by the council 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, when necessary, replace pages which 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 which 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 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 which 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.

(Code 1991, § 1-11)

Sec. 1-12. General penalty; continuing violations.

(a) Whenever in this Code or in any ordinance or resolution of the town, or rule, regulation 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 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 misdemeanor, where no specific penalty is provided for the violation thereof, the violation of any such provision of this Code, ordinance, resolution, rule, regulation or order shall be punished by a fine not exceeding \$500.00 or by imprisonment, for a period not exceeding 30 days. In addition, the court may assess costs against the defendant, if convicted.

(b) Each day of violation of this Code or ordinance, resolution, rule, regulation or order promulgated within the duly authorized scope of this Code shall constitute a separate offense unless otherwise provided.

(Code 1991, § 1-12; Ord. of 4-12-1994)

State law reference—General limits on penalty, S.C. Code 1976, §§ 5-7-30, 14-25-65.

Sec. 1-13. Severability of parts of Code.

It is hereby declared to be the intention of the council if any section, paragraph, sentence, clause or phrase of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code since the same would have been enacted by the council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

(Code 1991, § 1-13)

Sec. 1-14. Unauthorized alteration or tampering with Code.

It shall be unlawful for any person in the town to change or amend, by additions or deletions, any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the town to be misrepresented thereby.

(Code 1991, § 1-14)

Sec. 1-15. Police power extended to town property.

The police power of the town is hereby extended to include, as well as land within the town, all lands or property outside the town owned or leased by the town or any agency of the town and the general ordinances of the town shall be applicable on such property.

(Code 1991, § 1-15)

State law reference—Police power outside town, S.C. Code 1976, § 5-7-110.

Sec. 1-16. Enforcement of ordinances, laws, etc.

All officers and employees of the town shall enforce obedience to such statutes, provisions of this Code, any ordinances, resolutions or rules and regulations, or orders issued thereunder,

as may relate to their regular duties, and any other statutes, provisions of this Code or ordinances, resolutions, rules, regulations or orders with whose enforcement they are properly chargeable, by any measure provided therein, by the proper report of any violation thereof, and by instituting such proceedings as may be necessary to such enforcement.

(Code 1991, § 1-16)

Sec. 1-17. Right of entry for purposes of inspection.

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

(Code 1991, § 1-17)