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CHAPTER 1. GENERAL PROVISIONS.

Article I. Codification.

§ 1-1. Designation and citation of Code.

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

State law reference--Authority of county to codify and recodify its ordinances, Code of Virginia § 15.2-1433.

§ 1-2. Definitions and rules of construction.

A. The rules of construction given in Chapter 2, Title I, of the Code of Virginia (1950), as amended (§§ 1-10 *et seq.*), shall govern the construction of this Code and of all ordinances of the county, so far as applicable, unless such construction would be inconsistent

with the manifest intent of the board of supervisors or the context clearly requires otherwise.

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

Board of supervisors; board. Wherever the words "board of supervisors" and "board" are used, such words shall be construed to mean the Board of Supervisors of the County of Augusta, Virginia.

Code. Wherever the terms "Code" and "this Code" are used without further qualification, they shall mean the Code of the County of Augusta, Virginia, as designated in section 1-1.

County. The word "county" shall be construed as if the words "of Augusta County," followed it.

Officers, boards, etc. Whenever reference is made to a particular officer, department, board, commission or other agency, such reference shall be construed as if followed by the words "of the County of Augusta, Virginia." A reference to a particular officer shall also be construed as if followed by the words "or his duly authorized deputy, assistant or representative," subject, however, to the provisions of section 15.2-1502 of the Code of Virginia.

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

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

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

Section numbers. Whenever reference is made to a specific section (e.g. section 1-1), without further qualification, it shall be deemed to refer to that section of this Code.

Signature, subscription. The terms "signature" and "subscription" include the mark of a person who cannot write.

State code. References to the state code and Code of Virginia shall mean the Code of Virginia (1950), as amended.

State, commonwealth. The words "state" and "commonwealth" shall mean the Commonwealth of Virginia.

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

State law reference--Similar provisions applicable to state law, Code of Virginia § 1-13.3 *et seq.*

§ 1-3. Incorporating provisions of the Code of Virginia by reference.

Any provision of this Code or other ordinances of this county which incorporates by reference state statutes shall be deemed to include future amendments to the state statutes unless an intent to the contrary is specifically stated in the Code provision or ordinance.

State law reference--Virginia Code § 1-13.39:2.

§ 1-4. Severability of parts of Code.

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.

§ 1-5. Provisions considered continuations of prior Code and ordinances.

The provisions of this Code, so far as they are in substance the same as the provisions of the previous Augusta County Code and county ordinances existing on the date of adoption of this Code, shall be considered to be continuations thereof and not new enactments.

§ 1-6. Miscellaneous ordinances not affected by Code.

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

A. Any ordinance promising or guaranteeing the payment of money by or for the county or authorizing the issuance of any bonds of the county or any evidence of the county's indebtedness or any contract or obligation assumed by the county;

B. Any ordinance granting any franchise or right;

C. Any ordinance appropriating funds, making assessments or relating to an annual budget;

D. Any ordinance relating to salaries, compensation or bonds of county employees and officials or members of county boards or commissions;

E. Any ordinance authorizing, providing for or otherwise relating to any public improvement;

F. Any ordinance adopted for purposes which have been consummated;

G. Any ordinance which amends zoning district maps; or

H. Any other ordinance passed in such form as to indicate the intention of the board of supervisors not to make the same a part of this Code.

§ 1-7. Code does not affect prior offenses, rights, etc.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done; any penalty or forfeiture incurred; any contract or right established or accruing; any prosecution, suit or proceeding pending; or any judgment rendered, on or before the effective date of this Code.

§ 1-8. Additions and amendments deemed incorporated in Code.

A. Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the board of supervisors to make the same a part hereof, shall be incorporated into this Code by the County Attorney, so that reference to the Code shall be understood and intended to include such additions and amendments.

B. When incorporating an addition or amendment into this Code, the County Attorney may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the addition or amendment, insofar as it is necessary to do so to embody them into a unified code. For example, the County Attorney 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 "§§ _____ through _____," 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 County Attorney make any change in the meaning or effect of ordinance material included in the addition or amendment or already embodied in the Code.

State law reference--Authority to supplement Code, Code of Virginia, § 15.2-1433.

§ 1-9. Copies of Code to be available for public inspection.

At least three (3) copies of this Code and every addition or amendment incorporated therein shall be kept in the office of the county administrator and shall be available there for public inspection, during normal business hours.

State law reference--Similar provisions, Code of Virginia, § 15.2-1433.

Section 1-10 reserved.

Article II. Penalties.

§ 1-11. Classification of and penalties for violations; continuing violations.

A. Wherever in this Code or in any ordinance of the county or any rule or regulation 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 two thousand five hundred dollars (\$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 one thousand dollars (\$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 five hundred dollars (\$500.00).

4. *Class 4 misdemeanor*: By a fine of not more than two hundred fifty dollars (\$250.00).
(Ord. 12/13/00)

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 provisions 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) of this section.

C. Notwithstanding any other provision of this section or any other section of this Code, no penalty shall be imposed for a violation of this Code or any other ordinance or any rule or regulation referred to in this section that is greater than the penalty provided by state law for a similar offense.

D. Each day any violation of this Code or any other ordinance or any rule or regulation referred to in this section shall continue shall constitute a separate offense, except where otherwise provided.

State law references--Classification of misdemeanors and punishment therefor, Code of Virginia, §§ 18.2-9, 18.2-11; authority of county to provide penalties for violation of ordinances and provisions similar to subsection (c) above, Code of Virginia, § 15.2-1429.

§ 1-12. Arrest procedure in misdemeanor cases--Generally.

A. Whenever any person is detained by or is in custody of an arresting officer for any violation committed in such officer's presence, which offense is a violation of any

provisions of this Code or other county ordinance or any provision of the Code of Virginia punishable as a Class 1 or Class 2 misdemeanor or any misdemeanor for which he may receive a jail sentence, except as otherwise provided in title 46.2 or section 18.2-266 of the Code of Virginia, or an arrest on a warrant charging an offense for which a summons may be issued, and when specifically authorized by the judicial officer issuing the warrant, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving by such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody. If such person is believed by the arresting officer to be likely to disregard a summons issued under the provisions of this subsection, or if any person is reasonably believed by the arresting officer to be likely to cause harm to himself or to any other person, a magistrate or other issuing authority having jurisdiction shall proceed according to the provisions of section 19.2-82 of the Code of Virginia.

B. Whenever any person is detained by or is in the custody of an arresting officer for a violation of any provision of this Code or other county ordinance or any provision of the Code of Virginia punishable as a Class 3 or Class 4 misdemeanor or any other misdemeanor for which he cannot receive a jail sentence, except as otherwise provided in title 46.2 of the Code of Virginia and except the offense of public drunkenness, as defined in section 18.2-388 of the Code of Virginia, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving by such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody. However, if any such person shall refuse to discontinue the unlawful act, the officer may proceed according to the provisions of section 19.2-82 of the Code of Virginia.

C. Any person summoned under this section shall not be held in custody after the issuance of the summons for the purpose of complying with the requirements of chapter 23 of title 19.2 (section 19.2-387 *et seq.*) of the Code of Virginia. Reports to the central criminal records exchange concerning such person shall be made after a disposition of guilt is entered as provided for in section 19.2-390 of the Code of Virginia.

D. Any person refusing to give a written promise to appear under the provisions of this section shall be taken immediately by the arresting or other police officer before a magistrate or other issuing authority having jurisdiction, who shall proceed

according to the provisions of section 19.2-82 of the Code of Virginia.

E. Any person who willfully violates his written promise to appear given in accordance with this section shall be treated in accordance with the provisions of section 19.2-128 of the Code of Virginia, regardless of the disposition of and in addition to the charge upon which he was originally arrested.

F. Any person charged with committing any violation of section 18.2-407 of the Code of Virginia may be arrested and immediately brought before a magistrate who shall proceed as provided in section 19.2-82 of the Code of Virginia.

§ 1-13. Same--Issuance of summons by special policemen.

Special policemen of the county appointed as provided in section 15.2-1737 of the Code of Virginia and special policemen or conservators of the peace appointed under chapter 2 of title 19.2 (section 19.2-12 et seq.) of the Code of Virginia may issue summonses pursuant to section 1-12, if such officers are in uniform or displaying a badge of office. On application, the sheriff of the county shall supply each officer with a supply of summons forms, for which the officer shall account pursuant to regulations of the sheriff.

§ 1-14. Same--Form of summons.

The summons issued by a law enforcement officer pursuant to section 1-12 or 1-13 shall be in form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to section 46.2-388 of the Code of Virginia.

§ 1-15. Taxing of costs in prosecutions.

Costs shall be taxed in prosecutions under this Code and other county ordinances in the same amounts and in the same manner as prescribed by law in misdemeanor cases under state statutes.

§ 1-16. Disposition of fines and costs.

All fines and costs collected under the terms of this Code and other county ordinances shall be paid over to the treasurer of the county and credited by him to the general county fund.