

## Chapter 1 GENERAL PROVISIONS

- Sec. 1-1. Designation and citation of Code.
- Sec. 1-2. Definitions and rules of construction.
- Sec. 1-3. Provisions considered as continuations of existing ordinances.
- Sec. 1-4. Catchlines of sections.
- Sec. 1-5. Severability of parts of Code.
- Sec. 1-6. Effect of repeal or expiration of ordinances.
- Sec. 1-7. General penalty; continuing violations.
- Sec. 1-8. Editor's notes and references.
- Sec. 1-9. Certain ordinances not affected by Code.
- Sec. 1-10. Code does not affect prior offenses, rights, etc.
- Sec. 1-11. Supplementation of Code.
- Sec. 1-12. Altering Code.
- Sec. 1-13. History notes.
- Sec. 1-14. Amendments to Code; effect of new ordinances; amendatory language.

### Sec. 1-1. Designation and citation of Code.

The ordinances in this and the following chapters and sections shall constitute and be designated "The Code of the Town of Bath, West Virginia," and may be so cited. Such Code may also be cited as "Code of Ordinances, Town of Bath, West Virginia," "The Town Code," or the "Bath Municipal Code."

(Code 1981, § 1-101)

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

The following words, terms and phrases, when used in this Code, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Charter.* The term "Charter" means the Charter of the Town of Bath, as amended.

*Code.* The term "this Code" means The Code of the Town of Bath, West Virginia, as designated in section 1-1.

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

*Council, town council and common council.* The terms "council," "town council" and "common council" mean the common council of the Town of Bath, West Virginia.

*County.* The term "county" means Morgan County, in the State of West Virginia.

*Gender.* 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.

*Land and real estate.* The terms "land" and "real estate" include rights and easements of an incorporeal nature.

*May.* The word "may" is permissive rather than mandatory.

*Mayor.* The term "mayor" means the executive head of a municipal corporation.

*Month.* The term "month" means 30 calendar days.

*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; 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.

## The Code of the Town of Bath, West Virginia

*Oath.* The term "oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

*Official time standard.* Whenever certain hours are mentioned in this Code or other ordinances, they shall mean standard time or daylight savings time, whichever may be in current use in the town.

*Owner.* The term "owner," when applied to any property, includes any part owner, joint owner, tenant in common, joint tenant by the entirety, of the whole or a part of such property.

*Person.* The term "person" includes a corporation, body politic, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

*Personal property.* The term "personal property" includes every species of property except real property, as herein defined.

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

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

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

*Shall.* The term "shall" is mandatory.

*Sidewalk.* The term "sidewalk" means that 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" includes a mark when a person cannot write.

*State.* The term "state" means the State of West Virginia or any department, division, commission, board, educational or other institution of the state.

*Street.* The term "street" includes avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the town, and means 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 or occupant.* The term "tenant" or "occupant," when applied to a building or land, includes any person who occupies the whole or part of such building or land, whether alone or with others.

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

*Town.* The term "town" means the Town of Bath in the County of Morgan in the State of West Virginia.

*W. Va. Code.* The abbreviation "W. Va. Code" means and refers to the latest edition or supplement to the West Virginia Code, which comprises the statutes adopted by the state legislature.

*Written or in writing.* The term "written" or "in writing" includes any representation of words, letters or figures, whether by printing or otherwise.

*Year.* The term "year" means a calendar year, and the word "year" alone shall be equivalent to the expression "year of our Lord."

(Code 1981, § 1-102)

## The Code of the Town of Bath, West Virginia

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

The provisions appearing in this Code, so far as they are the same as the ordinances and Code of Ordinances existing and in force at the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

(Code 1981, § 1-103)

### **Sec. 1-4. Catchlines of sections.**

The catchlines of the several sections of this Code are intended as mere catchlines 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 1981, § 1-104)

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

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

(Code 1981, § 1-105)

### **Sec. 1-6. Effect of repeal or expiration of ordinances.**

- (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 any ordinance which repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

(Code 1981, § 1-106)

### **Sec. 1-7. General penalty; continuing violations.**

Whenever in this Code or in any ordinance or resolution of the common council, or in 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 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, and no specific penalty is provided for the violation thereof; the violation of any such provision of this Code or any such ordinance, resolution, rule, regulation, notice or order shall be punished by a fine not exceeding \$500.00, or the maximum permitted to be imposed under state law. Each day any violation of this Code or any such ordinance, resolution, rule, regulation, notice or order shall continue, shall constitute, except where otherwise provided, a separate offense.

(Code 1981, § 1-107)

## The Code of the Town of Bath, West Virginia

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

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

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

Nothing in the Code when adopted, or in the ordinance adopting the Code, shall be deemed to affect the validity of any of the following ordinances in effect at the time of adoption of this Code, and all such ordinances are hereby recognized as continuing in full force and effect under their own terms and conditions:

- (1) Any ordinance 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 obligation assumed by the town;
- (2) Any ordinance authorizing the execution of agreements with other political subdivisions or government agencies;
- (3) Any personnel policy, pay or classification plan or other ordinance or part of an ordinance fixing salaries of officers or employees of the town;
- (4) Any appropriation ordinance;
- (5) Any right or franchise granted to any person, firm or corporation;
- (6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the town;
- (7) Any ordinance establishing and prescribing the street grades of any street in the town;
- (8) Any ordinance providing for local improvements or assessing taxes therefor;
- (9) Any ordinance dedicating or accepting any plat or subdivision in the town, or providing regulations for the same;
- (10) Any ordinance annexing property to the town or excluding property from the town;
- (11) Any zoning ordinance of the town, or adoption of a comprehensive plan;
- (12) Any taxation ordinance not inconsistent with the Code;
- (13) Any ordinance prescribing traffic regulations for specific locations, prescribing through streets, parking limitations, parking prohibitions, one-way traffic, limitations on loads of vehicles or loading zones or dealing with parking meters, parking meter zones or flow of traffic generally, not inconsistent with the Code;
- (14) Any ordinance prescribing town rates, fees and charges;
- (15) Any temporary or special ordinance.

### **Sec. 1-10. Code does not affect prior offenses, rights, etc.**

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. Supplementation of Code.**

- (a) By contractor or by town personnel, supplements to the Code shall be prepared and printed whenever authorized or directed by the council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the council or adopted by initiative and referendum during the period covered by the supplement and all changes

## The Code of the Town of Bath, West Virginia

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 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 the 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 the 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 in the Code. For example, the codifier may:
  - (1) Organize the ordinance material into appropriate subdivisions;
  - (2) Provide appropriate headings for sections and other subdivisions of the Code printed in the supplement, and make changes in such headings;
  - (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," 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.

### **Sec. 1-12. Altering Code.**

It shall be unlawful to change or amend by addition or deletion any part of the Code or to insert or delete pages or portions thereof, or to alter or tamper with the Code in any manner whatsoever which will cause the law of the town to be misrepresented.

### **Sec. 1-13. History notes.**

The history or source 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 the matter contained in the section.

### **Sec. 1-14. 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 may be numbered in accordance with the numbering system of this Code and printed for inclusion herein, or in the case of repealed chapters, sections and subsections or any part thereof by subsequent ordinances, the repealed portions may be excluded from the Code by omission from reprinted pages affected thereby and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of the subsequent ordinances until the time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances.
- (b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in the following language:

## The Code of the Town of Bath, West Virginia

"That section \_\_\_\_\_ of The Code of the Town of Bath, West Virginia, is hereby amended to read as follows:...." The new provisions shall then be set out in full as enacted.

- (c) In the event a new section not heretofore existing in the Code is to be added, the following language may be used: "That The Code of the Town of Bath, West Virginia, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which section reads as follows:...." The new section shall then be set out in full as enacted.
- (d) In lieu of the foregoing subsection, when the governing authority desires to enact an ordinance of a general and permanent nature embracing a subject not previously existing in the Code, but which the governing authority desires to incorporate into the Code, a provision in substantially the following language may be made a part of the ordinance: "It is the intention of the council, and it is hereby ordained, that the provisions of this ordinance shall become and be made part of The Code of the Town of Bath, West Virginia, and the sections of this ordinance may be renumbered to accomplish that intention."
- (e) All sections, divisions, articles, chapters or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.