

CHAPTER 1: GENERAL PROVISIONS

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§ 1-101 HOW CODE IS DESIGNATED AND CITED.

(A) The provisions in the following chapters and sections shall constitute, and be designated, as the “Code of Ordinances, Town of Maiden, North Carolina”, and may be so cited.

(B) Such code may also be cited as the “town code”, or “code of ordinances”.

Statutory reference:

Code of Ordinances, G.S. § 160A-77; ordinance book, G.S. § 160A-78; pleading and proving city ordinances, G.S. § 160A-79.

§ 1-102 DEFINITIONS AND RULES OF CONSTRUCTION.

In the construction of this code, the following definitions and rules of construction shall be observed unless inconsistent with the manifest intent of the Town Council, or the context clearly requires otherwise.

CLERK. The Town Clerk, or his or her designee.

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. If the last day is Saturday, Sunday, or a legal holiday, that day shall be excluded.

COUNCIL. The Town Council.

COUNTY. The County of Catawba, North Carolina, except as otherwise provided.

DEPARTMENTS, OFFICERS, AND THE LIKE. The names of departments, officers, boards, commissions, and the like shall be read as though followed by “of the Town of Maiden”.

FINANCE OFFICER. The Finance Officer of the town, or his or her designee.

GENDER. Words importing the masculine gender shall include the feminine and neuter, and be extended to firms, partnerships, and corporations.

GENERAL STATUTES or **G.S.** The general statutes of the state, as amended.

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

MANAGER. The Town Manager, his or her designee, Acting Town Manager, or Interim Town Manager, as duly appointed by the Council.

MAY. The word shall be permissive.

MAYOR. The Mayor of the town.

MONTH. A calendar month.

NUMBER. Words used in the singular include the plural, and words used in the plural include the singular number.

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 named in this code, they shall mean Eastern Standard Time or

Eastern Daylight Saving Time, whichever may be in current use in the town.

OWNER. When 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. A corporation, firm, partnership, association, organization, and any other group acting as a unit, as well as an individual.

PERSONAL PROPERTY. Every species of property except real property, as defined in this section.

PRECEDING, FOLLOWING. Next before and next after, respectively.

PROPERTY. Real and personal property.

REAL PROPERTY. Lands, tenements, and hereditaments.

SHALL. The word shall be mandatory.

SIDEWALK. Any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

SIGNATURE. Includes a mark when the person cannot write; includes the word **SUBSCRIPTION**.

STATE. The State of North Carolina, except as otherwise provided.

STREET. Any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, or bridge, and the approaches thereto within the town.

TENANT. Any person who occupies the whole, or a part, of such building or land, whether alone or with others. Includes the word **OCCUPANT**.

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

TOWN. The Town of Maiden in Catawba County, North Carolina, except as otherwise provided.

WRITING. Printing, and any other mode of representing words and letters. Includes the word **WRITTEN**.

YEAR. A calendar year.

(Code 1976, § 1.1)

Cross-reference:

Definitions for animal chapter, § 4-101; definitions for minimum housing standards article, § 5-401; taxicab defined, § 6-201; definitions for amusement devices and places of amusement article, § 6-301; peddler defined, § 6-401; definitions of masseur and masseuse, § 6-502;; definitions for garbage and refuse chapter, § 11-101; interpretation of commonly used terms and words in land use and zoning, § 17-305; definitions of specific terms and words in land use and zoning, § 17-306; definitions for flood damage prevention article, § 17-402; definitions for subdivision control, § 17-501; minor subdivision defined, § 17-521; definitions regarding parades and demonstrations, § 19-321; traffic and motor vehicle definitions, § 20-101; definitions regarding sewer system, § 21-302; definitions regarding electric power system, § 21-401; definitions regarding abandoned motor vehicles, § 20-1201.

Statutory reference:

Computation of time, G.S. §§ 1-593, 1A-1, Rule 6(a), 159-2; rules construction, G.S. § 12-3; citation of general statutes, G.S. § 164-1.

§ 1-103 PROVISIONS CONSIDERED AS CONTINUATION OF EXISTING ORDINANCES.

The provisions appearing in this code, so far as they are the same as those of the previous codification, and any ordinances adopted subsequent to the previous codification and included herein, shall be considered as continuations thereof, and not as new enactments.

(Code 1976, § 1.2)

Statutory reference:

Construction of amended statute, G.S. § 12-4.

§ 1-104 CATCHLINES; HISTORY NOTES; REFERENCES TO CODE.

(A) The catchlines of the several sections of this code printed in boldface type 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.

(B) 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 matter contained in the section. Cross-references and statutory

references, which appear after sections or subsections of this code, or which otherwise appear in footnote form, are provided for the convenience of the user of this code, and have no legal effect.

(C) All references to chapters, articles, or sections are to the chapters, articles, and sections of this code, unless otherwise specified.

(Code 1976, § 1.3)

§ 1-105 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 an ordinance which repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

(Code 1976, § 1.4)

§ 1-106 DAMAGING ORDINANCES PROHIBITED.

No person shall tear or deface any of the town ordinances.

(Code 1976, § 1.7)

§ 1-107 CERTAIN ORDINANCES NOT AFFECTED BY CODE.

(A) Nothing in this code, or the ordinance adopting this code, shall be construed to repeal or otherwise affect the validity of any of the following:

(1) Any ordinance promising or guaranteeing the payment of money of the town, or authorizing the issuance of any bonds of the town, or any evidence of the town's indebtedness;

(2) Any ordinance providing for public improvements and assessments therefor;

(3) Any zoning ordinance, or any ordinance regulating or otherwise relating to the subdivision of land, except to the extent that Chapter 17 of the code is periodically amended;

(4) Any appropriation ordinance, or ordinance providing for an annual budget or for the transfer of funds;

(5) Any ordinance annexing territory to the town or discontinuing territory as a part of the town;

(6) Any ordinance granting any franchise, permit, or other right;

(7) Any ordinance approving, authorizing, or otherwise relating to any contract, agreement, or special project;

(8) Any ordinance regulating traffic or vehicles at specific locations, except to the extent that Chapters 17 and 20 are periodically amended; and

(9) Any ordinance setting fees or charges.

(B) 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.

Statutory reference:

Authority of town to omit designated classes of ordinances from code, G.S. § 160A-77.

§ 1-108 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 hereof, and printed for inclusion in this code. When subsequent ordinances repeal any chapter, section, or subsection, or any portion thereof, such repealed portions may be excluded from this code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall 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 Town 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 in the following language: "That section of the Code of Ordinances, Town of Maiden, North Carolina, is hereby amended to read as follows" The provisions shall then be set out in full as desired.

(C) If a new section is to be added to this code, the following language shall be used: "That the Code of Ordinances, Town of Maiden, North Carolina, 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 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.

§ 1-109 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 Manager. A supplement to the code shall include all substantive, permanent, and general parts of ordinances passed by the Town 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, 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 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, non-substantive 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 subsection numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter", "this article", "this subsection", and the like, as the case may be, or to "sections ___ 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 non-substantive changes necessary to preserve the original meanings 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.

§ 1-110 SEVERABILITY OF PARTS OF THE CODE.

It is hereby declared to be the intention of the 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 otherwise 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 the same would have been enacted by the Council without the incorporation in this code of any such unconstitutional, or invalid, phrase, clause, sentence, paragraph, or section.

(Code 1976, § 1.6)

§ 1-111 GENERAL PENALTY.

(A) Unless this code shall otherwise provide, violation of any provision hereof shall be a Class 3 misdemeanor punishable upon conviction by a fine not exceeding \$50, as provided in G.S. § 14-4(a). A violation of Chapter 20, Article XI, "Parking, Stopping or Standing", of this code shall be an infraction punishable upon conviction by a fine not exceeding \$50, as provided in G.S. § 14-4(b).

(B) Unless the code shall otherwise provide, violation of a provision of this code shall subject the offender to a civil penalty in the amount of \$50 to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within ten calendar days, or such longer period of time as may be prescribed, after he or she has been cited for violation of the ordinance.

(C) Unless the code shall otherwise provide, violation of a provision of this code may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the town for equitable relief that there is an adequate remedy at law.

(D) A provision of this code that makes unlawful a condition existing upon, or use made of, real property may be enforced by injunction and order of abatement, and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of such an ordinance or code provision occurs, the town may apply to the appropriate division of the General Court of Justice for a mandatory, or prohibitory, injunction, and order of abatement commanding the defendant to correct the unlawful condition upon, or cease the unlawful use of, the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

(E) In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the case. An order of abatement may direct that buildings, or other structures, on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the ordinance or code provision. If the defendant fails, or refuses, to comply with an injunction or with an order of abatement within the time allowed by the court, he or she may be cited for contempt, and the town may execute the order of

abatement. The town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and material man's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings, and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard, and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend, or cancel, an injunction issued in conjunction therewith.

(F) Subject to the express terms thereof, a provision of this code may be enforced by any one, all, or a combination of the remedies authorized, and prescribed, by this section.

(G) Except as otherwise provided in this code or in any ordinance of the town, each day any violation of such code or ordinance shall continue shall constitute a separate, and distinct, offense.

(Code 1976, § 1.5) (Ord. 10-89, passed 6-19-1989)

Cross-reference:

Violations of the State Building Code and minimum housing standards, §§ 5-206 and 5-210, 5-414(C); penalties for violation of the amusement article, §§ 6-352 et seq.

Statutory reference:

Violation of local ordinances deemed a misdemeanor, G.S. § 14-4; authority of town to enforce ordinances, G.S. § 160A-175.