

CHAPTER I: GENERAL PROVISIONS

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' 1.1 HOW CODE DESIGNATED AND CITED.

The ordinances embraced in this and the following chapters, articles and sections shall constitute and be designated *The Code of Ordinances, Town of Mocksville, North Carolina* and may be so cited. The code may also be cited *Mocksville Code* or *Town code*.

(1989 Code, ' 1-1; 2003 Code, ' 1.1)

Statutory reference:

Admission of code in evidence, see G.S. ' 160A-79

Adoption of code of ordinances, see G.S. ' 160A-77

' 1.2 OFFICIAL COPY OF CODE.

This code, which shall at all times be kept up to date by the Town Clerk, shall be the official code of the town.

(1989 Code, ' 1-2; 2003 Code, ' 1.2)

1.3 DEFINITIONS AND RULES OF CONSTRUCTION.

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

BOARD OF COMMISSIONERS; TOWN BOARD; BOARD; GOVERNING BODY. The Board of Commissioners of the Town of Mocksville, Davie County, North Carolina.

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 Saturday, Sunday or a legal holiday, that day shall be excluded.

COUNTY. Davie County, North Carolina, except as otherwise provided.

GENDER. Words importing one gender shall include the other genders.

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

MONTH. A calendar month.

NONTECHNICAL AND TECHNICAL WORDS. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to the meaning.

NUMBER. Words used in the singular include the plural and the plural includes the singular.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath; and, in those cases, the words *Aswear@* and *Asworn@* shall be equivalent to the words *Aaffirm@* and *Aaffirmed@*.

OFFICER; OFFICIAL. Reference to an officer or official by title shall include all duly authorized subordinates and agents, except where otherwise provided.

OFFICIALS; BOARDS; COMMISSIONS; AND THE LIKE. Whenever reference is made to officials, boards, commissions, committees and the like, by title only, they shall be construed as if followed by the words *Aof the Town of Mocksville, North Carolina@*.

OWNER. When applied to buildings or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or part of the 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 herein defined.

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

PROPERTY. Real and personal property.

REAL PROPERTY. Lands, tenements and hereditaments.

SHALL; WILL; MAY. The words **SHALL** and **WILL** are mandatory, and the word **MAY** is permissive.

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

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

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

STREET. Any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge and the approaches thereto within the town and shall mean the entire width of the right-of-way between abutting property lines.

TENANT; OCCUPANT. Applied to a building or land, shall include any person who occupies the whole or part of the 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; MUNICIPALITY. The Town of Mocksville, in Davie County, North Carolina.

WRITING; WRITTEN. Printing and any other mode of representing words and letters.

YEAR. A calendar year.

(1989 Code, ' 1-3; 2003 Code, ' 1.3)

Statutory reference:

Computation of time, see G.S. ' 1-593

Definitions and rules for construction of statutes, see G.S. ' 12-3

Definitions and rules of statutory construction relating to municipalities, see G.S. ' 160A-1

' 1.4 PROVISIONS CONSIDERED AS CONTINUATIONS OF EXISTING ORDINANCES.

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

(1989 Code, ' 1-4; 2003 Code, ' 1.4)

' 1.5 CATCH LINES OF SECTIONS.

The catch lines of the several sections of this code are intended as mere catchwords to indicate the contents of the section and shall be deemed or taken neither to be titles of the sections nor as any part thereof; nor, unless expressly so provided, shall they be so deemed when any of the sections, including the catch lines, are amended or reenacted.

(1989 Code, ' 1-5; 2003 Code, ' 1.5)

' 1.6 SUPPLEMENTATION OF CODE.

(A) By contract or by municipal personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the governing body. A supplement to the code shall include all substantive permanent and general parts of ordinances adopted 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; 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. The charter may be supplemented in the same manner.

(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 materials into appropriate subdivisions;
- (2) Provide appropriate catch lines, headings and titles for sections and other subdivisions of the code printed in the supplement and make changes in the catch lines, 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 *Athis ordinance@* or words of the same meaning to *Athis chapter@*, *Athis article@*, *Athis division@* and the like, as the case may be, or to *Asections _____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 non-substantive changes necessary to preserve the original meaning of ordinance sections inserted in 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.

(1989 Code, ' 1-6; 2003 Code, ' 1.6)

' 1.7 AMENDMENT TO CODE; EFFECT OF NEW ORDINANCES; AMENDATORY LANGUAGE.

(A) (1) All ordinances passed subsequent to this code of ordinances which amend, repeal or in any way affect this code of ordinances, may be numbered in accordance with the numbering system of this code and printed for inclusion herein. When subsequent ordinances repeal any chapter, article, section or subsection or any portion thereof, the repealed portions may be excluded from the code by omission from reprinted pages.

(2) Amendments to any of the provisions of this code may be made by the Board of Commissioners.

(B) When the Board desires to enact an ordinance of a general and permanent nature on a subject not heretofore existing in the code, it is hereby ordained that the provisions of that ordinance shall become and be made a part of the code of ordinances and the sections of that ordinance may be renumbered to accomplish the intention.

(C) All sections, articles, chapters or provisions of this code desired to be repealed shall be specifically repealed by section, article or chapter number, as the case may be.
(1989 Code, ' 1-7; 2003 Code, ' 1.7)

' 1.8 GENERAL PENALTY; ENFORCEMENT OF ORDINANCES; CONTINUING VIOLATIONS.

(A) Unless otherwise provided herein, each violation of this code or any other town ordinance shall constitute a misdemeanor, except as otherwise provided by statute, and violations of the provisions of any town ordinance shall be punishable by fine or imprisonment as provided by law. Each day any violation of any town ordinance shall constitute a separate offense, except as may be specifically provided.

(B) Violations of any town ordinance shall constitute either a misdemeanor or, at the election of the town, shall subject the offender to a civil penalty upon the issuance of a citation for the violation as hereinafter provided. The civil penalty, if not paid to the town within 15 days of the issuance of a citation, may be recovered by the town in a civil action in the nature of debt. Unless otherwise provided by a specific provision of any town ordinance, the civil penalties shall be in the amount of \$50 for each violation and each day any single violation continues shall be a separate violation.

(C) In addition to the civil penalties set out above, any provision of any town ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In that case, the general court of justice shall have jurisdiction to issue 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.

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(D) In addition to the civil penalties set out above, any provisions of any town ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by the general court of justice. When a violation of a provision occurs, the town may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and/or 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) 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 abandoned or junked vehicles be removed; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the applicable town ordinance. 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 materialman=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 judicial order. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(F) The provisions of any town ordinance may be enforced by one, all or a combination of the remedies authorized and prescribed by this chapter.

(G) Any ordinances hereafter adopted by the Board of Commissioners of the town, the violation of which shall incur a penalty, shall specify whether the enforcement shall be pursuant to the civil penalty and/or criminal penalty provisions of this chapter.

(H) Upon determination of a violation of any section of any town ordinance, the penalty for which is a civil penalty, the Enforcement Official of the town shall cause a warning citation to be issued to the violator. The warning citation shall set out the nature of the violation, the section violated, the date of the violation and shall contain an order to immediately cease the violation. If the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time must be stated in which the violation must be abated. The warning citation shall specify that a second and subsequent citations shall incur a civil penalty, together with costs and attorney fees.

(I) An appeal from a warning citation shall be taken within ten days from the date of the warning citation to the Board of Adjustment. Except in any case where the ordinance is violated, which is the subject of the warning citation, specifically grants to the Board of Adjustment other powers in considering appeals and the appeal is applied for, the Board of Adjustment in considering appeals of warning citations shall have power only in the manner of administrative review and interpretation where it is alleged that the Enforcement Official has made an error in the application of an ordinance, in the factual situation as it relates to the application of the ordinance, or both. A violator who fails to file an appeal within the time period described above is deemed to have forfeited the appeal for the violation, the warning citation, the civil citations and the civil penalties assessed for the violation.

(J) Where the Enforcement Official of the town determines that the period of time stated in the original warning citation is not sufficient for abatement based upon the work required or consent agreement, the Enforcement Official may amend the warning citation to provide for additional time.

(K) Upon failure of the violator to obey the warning citation, a civil citation shall be issued by the Enforcement Official of the town and either served directly on the violator, his or her duly designated agent or registered agent if a corporation, either in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the county or obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of the citation. The citation shall direct the violator to appear before the Town Manager, or designee, within 15 days of the date of the citation, or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid; otherwise further citations shall be issued. If a violation is repeated within a two-year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to additional penalties and remedies as set forth in this section. A repeat violation is one which is identical to or reasonably similar to a previous violation for which the town has issued a notice of violation or civil citation.

(L) If the violator fails to respond to a citation within 15 days of its issuance, and pay the penalty prescribed therein, the town may institute a civil action in the nature of debt in the appropriate division of the state's general court of justice for the collection of the penalty, costs, attorney fees and other relief as permitted by law.

(M) The existing ordinances of the town, a violation of which shall subject the offender to civil penalties and/or criminal penalty provisions of law, are as follows:

- (1) Abandoned, junked and nuisance vehicles;
- (2) Adult establishments;
- (3) Criminal nuisances;
- (4) Minimum housing;
- (5) Public health nuisance;

(6) Subdivision ordinance; and

(7) Zoning ordinance.

(2003 Code, ' 1.8)

' 1.9 PENALTY NOT EXCLUSIVE.

(A) The imposition of a penalty under the provisions of this code shall not prevent the revocation or suspension of any license, franchise or permit issued or granted hereunder.

(B) In the event any violation of this code is designated as a nuisance under the provisions of this code, the nuisance may be summarily abated by the town in addition to the imposition of a fine or imprisonment.

(2003 Code, ' 1.9)

' 1.10 LIABILITY OF CORPORATE OFFICERS, AGENTS AND EMPLOYEES FOR VIOLATION OF CODE.

In the event of a violation of any provision of this code or other ordinance of the town by a corporation, the officer, agent or employee thereof who performs the act constituting the violation or procures, aids or abets the performance of the act shall be subject to the same penalties as if he or she himself or herself had committed the violation.

(2003 Code, ' 1.10)

' 1.11 CODE DOES NOT AFFECT PRIOR OFFENSES, RIGHTS AND THE LIKE.

Nothing in this code or an 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, or any prosecution, suit or proceeding pending or any judgment rendered, on or before the effective date of this code.

(1989 Code, ' 1-9; 2003 Code, ' 1.11)

' 1.12 ALTERING 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 the code in any manner whatsoever which will cause the law of the town to be misrepresented thereby. Any person violating this section shall be punished as provided in ' 1.8 hereof.

(1989 Code, ' 1-10; 2003 Code, ' 1.12)

' 1.13 MISCELLANEOUS ORDINANCES NOT AFFECTED BY CODE.

(A) Nothing in this code or an ordinance adopting this code shall affect:

(1) Any ordinance promising or guaranteeing the payment of money by or for the town or authorizing the issuance of any bond of the town or any evidence of the town=s indebtedness or any contract or obligation assumed by the town;

(2) Any ordinance granting any franchise or right;

(3) Any ordinance appropriating funds, levying or imposing taxes or relating to an annual budget;

(4) Any ordinance annexing territory to the town or excluding territory from the town;

(5) Any ordinance authorizing, providing for or otherwise relating to any specific public improvement or making any assessment therefor;

(6) Any personnel program or retirement ordinance or ordinance prescribing personnel compensation, not in conflict with this code;

(7) Any ordinance relative to zoning or to zoning map changes or zoning or rezoning specific property, not in conflict with this code;

(8) Any ordinance dedicating, accepting or approving any plat or subdivision, or providing any subdivision regulations, not in conflict with this code;

(9) Any ordinance adopted for purposes which have been consummated;

(10) Any ordinance which is temporary, although general in effect, or special, although permanent in effect;

(11) Any ordinance providing traffic regulations for specific areas, such as no-parking zones, stop intersections and the like, not in conflict with this code; or

(12) Any ordinance enacted after 7-1-2003.

(B) All of those ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this code.
(1989 Code, ' 1-11; 2003 Code, ' 1.13)

' 1.14 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.

(1989 Code, ' 1-12; 2003 Code, ' 1.14)

' 1.15 SEVERABILITY OF PARTS OF CODE.

It is hereby declared to be the intention of the Board of Commissioners that the sections, subsections, sentences, clauses and phrases of this code are severable; and if any phrase, clause, sentence, subsection or section of this code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, the unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, subsections and sections of this code, since they would have been enacted by the Board of Commissioners without the incorporation in this code of any unconstitutional or invalid phrase, clause, sentence, subsection or section.

(1989 Code, ' 1-13; 2003 Code, ' 1.15)

' 1.16 POLICE POWER EXTENDED TO TOWN PROPERTY.

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

(1989 Code, ' 1-14; 2003 Code, ' 1.16)

Statutory reference:

Authority to extend jurisdiction, see G.S. ' 160A-176