

GENERAL PROVISIONS

§ **10.01** **TITLE OF CODE.**

The ordinances embraced in this and the following chapters and sections shall constitute and be designated The Code of Ordinances of the Town of Aberdeen, North Carolina and may be so cited. Such code may also be cited as Aberdeen Town Code.
(’75 Code, § 1-1)

§ **10.02 INTERPRETATION.**

(A) Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of the General Statutes of North Carolina.

(B) Where a section of this code is followed by a reference to the General Statutes of North Carolina, the reference indicated that the section is analogous or similar to the cited sections in the General Statutes of North Carolina. Footnotes, cross-references and other comments are by way of explanation only and should not be deemed a part of the text of any section.

(C) Nothing herein contained is intended to conflict with or supersede applicable state or federal laws.

(D) Code, title, chapter and section headings do not constitute any part of the law as contained in the code.

§ 10.03 CAPTIONS.

The captions of the several sections of this code 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 thereof, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the captions, are amended or reenacted.

('75 Code, § 1-4)

§ 10.04 DEFINITIONS.

For the purpose of this chapter, unless otherwise specifically provided, the following words and phrases shall have the following meanings.

BOARD OF COMMISSIONERS or TOWN COUNCIL. The governing body of the Town of Aberdeen, North Carolina. The term **BOARD OF COMMISSIONERS** shall be deemed to be interchangeable with the term **TOWN COUNCIL**.

COUNTY. Moore County, North Carolina.

DEVELOPMENT. That which is to be done pursuant to a certificate of zoning compliance, special use permit, conditional use permit, or sign permit.

MONTH. A calendar month.

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**.

OWNER. When applied to any property, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or part of such property.

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 and FOLLOWING. Next before and next after, respectively.

PROPERTY. Real and personal property.

REAL PROPERTY. Lands, tenements and hereditaments.

SHALL and MAY. The word **SHALL** is 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 or SUBSCRIPTION. A mark when a person cannot write.

STATE. State of North Carolina.

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.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

TENANT or **OCCUPANT.** When 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.

TOWN. The Town of Aberdeen in the County of Moore and the State of North Carolina.

TOWN MANAGER. The chief administrator of the Town of Aberdeen.

WRITING or **WRITTEN.** Shall include printing and any other mode of representing words and letter.

YEAR. A calendar year
(’75 Code, § 1-2)

Statutory reference:

Similar statutory definitions, see G.S. § 12-3

§ 10.05 RULES OF CONSTRUCTION.

The construction of all ordinances of this town shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance.

(A) **AND** or **OR**. Either conjunction shall include the other as if written and/or, if the sense requires it.

(B) Gender; singular and plural; tenses. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(C) General term. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

(D) Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language. However, technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to that meaning.

(E) Computation of time. The time within which an act is to be done, as provided by law, shall be computed in the manner prescribed by Rule 6 of the North Carolina Rules of Civil Procedure. (G.S. § 1-593)

(F) 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, unless otherwise expressly declared in the law giving the authority. (G.S. § 12-3(2))

Statutory reference:

Similar statutory rules of construction, see G.S. § 12-3

§ 10.06 CONFLICTING PROVISIONS.

If the provisions of different codes, chapters or sections of the codified ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be construed so as to be consistent with the meaning or legal effect of the subject matter taken as a whole.

§ 10.07 SEVERABILITY.

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

('75 Code, § 1-5)

§ **10.08 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.

('75 Code, § 1-3)

§ 10.09 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ **10.10 REFERENCE TO OFFICES.**

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of the town exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ **10.11 ERRORS AND OMISSIONS.**

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted that will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ **10.12 OFFICIAL TIME.**

Whenever certain hours are named in this code, they shall mean standard time or daylight saving time, as may be in current use in this town.

§ **10.13 REASONABLE TIME.**

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) In computing any period of time prescribed or allowed by this code, by order of any court, or by any applicable statute, such computation shall be in the manner prescribed by Rule 6 of the North Carolina Rules of Civil Procedure.

§ **10.14 ORDINANCES REPEALED.**

 This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subject herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ **10.15 ORDINANCES UNAFFECTED.**

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.16 ORDINANCES SAVED.

Whenever an ordinance by its nature either authorizes or enables the legislative body or a certain town officer or employee to make additional ordinances or regulations for the purpose of carrying out the intent of the ordinances, all ordinances and regulations of a similar nature serving that purpose effected prior to the codification and not inconsistent thereto, shall remain in effect and are saved.

§ **10.17 AMENDMENTS TO CODE; AMENDATORY LANGUAGE.**

Any chapter, section or division amended or added to this code by ordinances passed subsequent to this code may be numbered in accordance with the numbering system of this code and printed for inclusion herein. Any chapter, section or division repealed by subsequent ordinances may be excluded from this code by omission from reprinted pages. Subsequent ordinances as printed or omitted shall be prima facie evidence of the subsequent ordinances until the legislative body of the town adopts a new code of ordinances.

(’75 Code, § 1-8)

§ 10.18 **EXTRATERRITORIAL JURISDICTION FOR ENFORCEMENT OF CERTAIN ORDINANCES.**

(A) Within its extraterritorial jurisdiction, the town shall exercise all corporate powers available to it pursuant to G.S. § 160A-360.

(B) The boundaries of the town's extraterritorial jurisdiction shall be delineated on the face of a map entitled *Extraterritorial Jurisdiction of the Town of Aberdeen*, which is hereby adopted by reference.

(C) The official copy of this map shall be on record in the office of the Town Clerk for public inspection during normal business hours. The Town Clerk shall cause a certified copy of this provisions and map and any subsequent amendments to be recorded in the office of the register of deeds of the county. The Town Clerk shall cause signs, signposts or similar readily-identifiable markers to be installed at all points of intersection of the above-described boundary with all roads, streets, highways and railroads.

('75 Code, § 1-6)(Ord., passed 6-16-72; Amended 2-12-07; Am. Ord., passed 9-10-07)

§ 10.98 GENERAL PENALTY.

(A) (1) Pursuant to G.S. § 14-4 and except as provided in subdivisions (A)(2) and (A)(3) any person who violates any provision of this Code of Ordinances shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$50. (Amended 8-13-01, Amended 8/9/10)

(2) Any person who violates any provision of this Code regulating the operation or parking of vehicles shall be responsible for an infraction and shall be required to pay a penalty of not more than \$50.

(3) Any person who violates any provision of this Code pertaining to pickets, parades, public assemblies, and special events (Code § 96.01 through 96.31) shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$500.00. See Code § 96.32. (Amended 8/9/10)

(B) Any provision of this code or any other town ordinance 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.

(C) Any provision of this code or any other town ordinance 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 a 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 State Rules of Civil Procedure in general and Rule 65 in particular.

(1) In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other removable 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 this code or the ordinance.

(2) 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 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 the executing an order of abatement in the nature of a mechanic's and materialman's lien.

(3) 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's 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.

(4) Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

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

(E) Except as otherwise specifically provided, each day's continuing violation of any provision of this code or any other town ordinance shall be a separate and distinct offense.

(F) A violation of any provision of this Code, other than the provisions of Chapter 71 (Parking Regulations), the provisions of Chapter 74, Schedule II (Parking of Through-trucks and Loading Zones); the provisions of Subsections 70.40(E) and 70.43(B); and Chapter 152 (the Unified Development Ordinance) shall subject the offender to a civil penalty of fifty dollars (\$50.00). A violation of the provisions of Chapter 71 (Parking Regulations), the provisions of Chapter 74, Schedule II (Parking of Through-trucks and Loading Zones) and the provisions of Subsections 70.40(B) and 70.43(B), shall subject the offender to a civil penalty of ten dollars (\$10.00). A violation of Chapter 152 (Unified Development Ordinance) shall subject the offender to civil penalties as provided for in that chapter. If a person fails to pay this penalty within ten days after being cited for a violation, the Town may seek to recover the penalty by filing a civil action in the nature of the debt.

For violations of the Unified Development Ordinance, see also Code of Ordinances Chpt. 152, Art. VII, "Enforcement".

(G.S. § 160A-175) ('75 Code, § 1-7) (Am. Ord., passed 5-30-02, Amended 8/9/10, Amended 5/2/13, Amended 6/13/11)

§ **10.99** **CIVIL PENALTIES (GENERAL PENALTY).**

(Repealed 8-13-01)