

## CODE OF ORDINANCES

### Chapter 1

## GENERAL PROVISIONS

#### **Sec. 1-101. How Code designated and cited.**

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. Such Code may also be cited as the "Maiden Town Code."

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

#### **Sec. 1-102. 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 town council or the context clearly requires otherwise.

*Clerk.* The word "clerk" shall mean the town clerk of Maiden or his 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 words "the council" shall mean the town council of the Town of Maiden.

*County.* The word "county" shall mean the County of Catawba, in the State of North Carolina, except as otherwise provided.

*Departments, officers, etc.* The names of departments, officers, boards, commissions, etc., shall be read as though followed by "of the Town of Maiden."

*Finance officer.* The words "finance officer" shall mean the finance officer of Maiden or his 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.* "G.S." or "General Statutes" shall mean the General Statutes of North Carolina as amended.

*Joint authority.* All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

*Manager.* The word "manager" shall mean the town manager, his designee, acting town manager or interim town manager as duly appointed by the council.

*May.* The word "may" is permissive.

*Mayor.* The words "the mayor" shall mean the mayor of the Town of Maiden.

*Month.* The word "month" shall mean a calendar month.

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

*Oath.* The word "oath" shall be construed to include 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 Savings Time, whichever may be in current use in the town.

*Owner.* The word "owner," 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.* The word "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

*Personal property.* The words "personal property" include every species of property except real property as defined in this section.

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

*Property.* The word "property" shall include real and personal property.

*Real property.* The words "real property" shall include lands, tenements and hereditaments.

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

*Sidewalk.* The word "sidewalk" shall mean any portion of a street between the curblin and the adjacent property line intended for the use of pedestrians.

*Signature.* The word "signature" or "subscription" include a mark when the person cannot write.

*State.* The word "state" shall be construed to mean the State of North Carolina, except as otherwise provided.

*Street.* The word "street" shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct or bridge and the approaches thereto within the town.

*Tenant.* The word "tenant" or "occupant" 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.

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

*Town.* The words "the town" shall mean the Town of Maiden in Catawba County, North Carolina, except as otherwise provided.

*Writing.* The words "writing" and "written" shall include printing and any other mode of representing words and letters.

*Year.* The word "year" shall mean a calendar year.  
(Code 1976, § 1.1)

**Cross references**—Definitions for animal chapter, § 4-101; definitions for minimum housing standards article, § 5-402; 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 community antenna television systems chapter, § 8-102; 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, § 21-301; definitions regarding electric power system, § 21-401; definitions regarding abandoned motor vehicles, § 20-1201.

**State law references**—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.

### **Sec. 1-103. Provisions considered as continuations of existing ordinances.**

The provisions appearing in this Code, so far as they are the same as those of the 1976 Code and any ordinances adopted subsequent to the 1976 Code and included herein, shall be considered as continuations thereof and not as new enactments.

(Code 1976, § 1.2)

**State law reference**—Construction of amended statute, G.S. § 12-4.

### **Sec. 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 state law 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)

### **Sec. 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)

**Sec. 1-106. Damaging ordinances prohibited.**

No person shall tear or deface any of the town ordinances.  
(Code 1976, § 1.7)

**Sec. 1-107. Certain ordinances not affected by Code.**

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;
- (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;
- (9) Any ordinance setting fees or charges.

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.

**State law reference**—Authority of city to omit designated classes of ordinances from Code, G.S. § 160A-77.

**Sec. 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.

### **Sec. 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 administrator. 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, nonsubstantive 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 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 "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 nonsubstantive 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.

**Sec. 1-110. Severability of parts of 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)

**Sec. 1-111. General penalty.**

(a) Unless this Code shall otherwise provide, violation of any provision hereof shall be a misdemeanor punishable upon conviction by a fine not exceeding fifty dollars (\$50.00) or by imprisonment not exceeding thirty (30) days, as provided in G.S. section 14-4. A provision of this Code may provide by express statement that the maximum fine or term of imprisonment to be imposed for its violation shall be some figure or number of days less than the maximum penalties prescribed by G.S. section 14-4.

(b) Unless the Code shall otherwise provide, violation of a provision of this Code shall subject the offender to a civil penalty to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he 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 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 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 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 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 (1), 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. No. 10-89, 6-19-89)

**Cross references**—Violations of minimum housing standards, § 5-421; penalties for violation of the amusement article, § 6-352 et seq.; penalties for violation of fair housing article, § 13-206.

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

