**CHAPTER 1: GENERAL PROVISIONS**

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**1‑1 DESIGNATION AND CITATION OF CODE.**

The ordinances embraced in this and the following chapters and sections shall constitute and be designated Code of Ordinances, Town of Maxton, North Carolina, and may be so cited.

(1970 Code,  1‑1; 2001 Code,  1-1)

***Statutory reference:***

*Admission of code in evidence, see G.S. 160A‑79*

**1‑2 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.

***CHARTER.*** The Charter of the Town of Maxton, North Carolina, as printed in part I of this volume.

***CODE.*** The Code of Ordinances, Town of Maxton, North Carolina, as designated in part II.

***COMMISSIONERS, BOARD, TOWN BOARD*** and ***BOARD OF COMMISSIONERS.*** The members of the governing body of the Town of Maxton, 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.*** The County of Robeson/Scotland in the State of North Carolina, except as otherwise provided.

***GENDER.*** Words importing the masculine gender shall include the feminine and neuter.

***GOVERNOR*** or ***THE GOVERNOR.*** The Governor of North Carolina.

***G.S.*** and ***GENERAL STATUTES.*** The latest edition of the General Statutes of North Carolina, as amended.

***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.

***MAY, SHALL.*** The term ***MAY*** is permissive; the term ***SHALL*** is mandatory.

***MONTH.*** A calendar month.

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

***OATH.*** Includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath: and, in those cases, the terms swear and sworn shall be equivalent to the terms affirm and affirmed.

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

***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 of the Town of Maxton, North Carolina.

***OWNER.*** 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 a part of the property.

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

***PERSONAL PROPERTY.*** Includes every species of property, except real property.

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

***PROPERTY.*** Includes real and personal property.

***REAL PROPERTY.*** Lands, tenements and hereditaments.

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

***SIGNATURE, SUBSCRIPTION.*** Includes a mark when the person cannot write.

***STATE*** and ***THIS 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 its approach within the town and shall mean the entire width of the right‑of‑way between abutting property lines.

***TENANT*** and ***OCCUPANT.*** Applied to a building or land, shall include any person who occupies the whole or a part of the 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*** and ***THE TOWN.*** All incorporated areas within the Town of Maxton in the State of North Carolina, except as otherwise provided.

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

***YEAR.*** A calendar year, unless otherwise specified.

(1970 Code,  1‑2; 2001 Code,  1-2)

***Statutory reference:***

*Computation of time, see G.S.  1‑593*

*Similar rules of construction of statutes, see G.S.  160A‑1*

**1‑3 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 in this code, shall be considered as continuation of this code and not as new enactments.

(1970 Code,  1‑3; 2001 Code,  1-3)

**1‑4 CATCHLINES OF SECTIONS; HISTORY NOTES AND REFERENCES.**

(A) The catchlines of the several sections of the code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of the sections, nor as any part of the section; nor, unless expressly so provided, shall they be so deemed when any of the sections, including the catchlines are amended or reenacted.

(B) The history notes following sections and the references and notes scattered throughout the code are not part of the code, but are merely for the benefit of the user of the code.

(1970 Code,  1‑4; 2001 Code,  1-4)

**1‑5 SEVERABILITY OF PARTS OF CODE.**

It is 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 judgment or decree of any court of competent jurisdiction, the 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 unconstitutional or invalid phrase, clause, sentence, paragraph or section.

(1970 Code,  1‑5; 2001 Code,  1-5)

**1‑6 GENERAL PENALTY; ENFORCEMENT OF ORDINANCES; CONTINUING VIOLATIONS.**

(A) (1) Unless otherwise specifically provided, violation of any provision of this code or any other town ordinance shall subject the offender to a civil penalty; except that, where the General Statutes of the state provide specific remedies for violations of provisions of the code adopted pursuant to the statutes, the remedies available to the town for enforcement of this code shall be in addition to the remedies stated in this section. No criminal penalties shall be applicable unless stated in this section as being applicable to specific chapters or provisions of this code.

(2) Where a civil penalty is incurred, a civil citation shall be issued by the appropriate official of the town and either served directly on the violator or his or her duly designated agent, or registered agent if a corporation, 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 Treasurer, located in the town hall, 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, if applicable; otherwise, further citations shall be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated.

(3) If the violator fails to respond to a citation within 15 days of its issuance and pay the penalty prescribed in the citation, the town may institute a civil action in the nature of debt in the appropriate division of the state general court of justice for the collection of the penalty.

(B) A willful failure to pay any civil penalty incurred as stated in subsection (A) of this section shall be a misdemeanor and punishable by a fine up to $500 and/or 30 days incarceration as provided by G.S.  14‑4.

(C) In addition to any civil or criminal penalties set out in this section, 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 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.

(D) In addition to any civil or criminal penalties set out in this section, 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 the orders. 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 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.

(E) (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:

(a) Buildings or other structures on the property be closed, demolished or removed;

(b) Fixtures, furniture or other movable property be removed from buildings on the property;

(c) Grass and weeds be cut;

(d) Improvements or repairs be made; and/or

(e) Any other action be taken that is necessary to bring the property into compliance with this code or an 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 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 mechanics and materialmans 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 defendants 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 with the order.

(F) The provisions of this code and any other town ordinances may be enforced by one, and/or a combination of the remedies authorized and prescribed by this section; except that, any provision the violation of which incurs a civil penalty shall not be enforced by criminal penalties except as outlined in subsection (B) of this section.

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

(H) Any ordinances 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 or criminal penal provisions of this section.

(I) Upon determination of a violation of any section of this code, the penalty for which is a civil penalty, the town may cause a warning citation to be issued to the violator, setting out the nature of the violation, the section violated, the date of the violation and an order to immediately cease, the violation or, if the violation is in the nature of an infraction for which an order of abatement would be appropriate civil proceeding, stating a reasonable period of time in which the violation must be abated. This warning citation shall specify that a second citation shall incur a civil penalty.

(J) Upon failure of the violator to obey the warning citation, a civil citation shall be issued by the appropriate official of the town and either served directly on the violator or his or her duly designated agent, or registered agent if a corporation, 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 Treasurer, located in the town hall, 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. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated. If the violator fails to respond to the citation within 15 days of its issuance and pay the penalty prescribed in the citation, the town may institute a civil action in the nature of debt pursuant to subsection (B) of this section. A willful failure to pay the penalty shall result in the offender being charged with a misdemeanor and fined up to $500 and/or incarcerated 30 days as outlined in subsection (B) of this section.

(1970 Code,  1‑6; 2001 Code,  1-6)

***Statutory references:***

*Penalty for violation of town ordinances, see G.S.  14‑4*

*Similar provisions, see G.S.  160A‑175*

**1‑7 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 and printed for inclusion in this code. When subsequent ordinances repeal any chapter, section or subsection or any portion of a chapter, section or subsection, the 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 the subsequent ordinances until the time that this code and subsequent ordinances numbered or omitted are readopted as a new code by the Board of Commissioners.

(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 Maxton, North Carolina, is hereby amended to read as follows: ... The new provisions shall then be set out in full as desired.

(C) If a new section not heretofore existing in the code is to be added, the following language shall be used: That the Code of Ordinances, Town of Maxton, 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.

(1970 Code,  1‑7; 2001 Code,  1-7)

**1‑8 SUPPLEMENTATION OF CODE.**

(A) By contract or by town personnel, supplements to this code shall be prepared on an annual basis. A supplement to the code shall include all substantive, permanent and general parts of ordinances passed by the Board of Commissioners during the period covered by the supplement and all changes made by the supplement 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 their omission 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 subsections of the code printed in the supplement, and make changes in the catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subsections 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 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 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.

(1970 Code,  1‑8; 2001 Code,  1-8)

**1‑9 ORDINANCES NOT AFFECTED BY CODE.**

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

(1) 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;

(2) Any ordinance or resolution 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 towns indebtedness;

(3) Any contract or obligation assumed by the town;

(4) Any ordinance fixing the salary of any town officer or employee;

(5) Any right or franchise granted by the town;

(6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving and the like any street or public way in the town;

(7) Any appropriation ordinance;

(8) Any ordinance which, by its own terms, is effective for a stated or limited term:

(9) Any ordinance providing for local improvements and assessing taxes for the improvements;

(10) Any zoning ordinance;

(11) Any ordinance dedicating or accepting any subdivision plat;

(12) Any ordinance describing or altering the boundaries of the town;

(13) The administrative ordinances or resolutions of the town not in conflict or inconsistent with the provisions of this code;

(14) Any ordinance levying or imposing taxes not included in this code;

(15) Any ordinance establishing or prescribing street grades in the town; and/or

(16) Any personnel ordinance.

(B) Nor shall the ordinance be construed to revive any ordinance or part of an ordinance that has been repealed by a subsequent ordinance that is repealed by this chapter; and all ordinances are recognized as continuing in full force and effect to the same extent as if set out at length in this section.

(1970 Code,  1‑9; 2001 Code,  1-9)

***Statutory reference:***

*Statutes not repealed by General Statutes, see G.S.  164‑7*