

## **GENERAL PROVISIONS**

### **Section 1-1. - 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 Holly Ridge, North Carolina" or the "Holly Ridge Municipal Code," and may be so cited.

### **Section 1-2. - Definitions and rules of construction**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Code.** The terms "the Code" and "this Code" mean the Code of Ordinances, Town of Holly Ridge, North Carolina.

**Computation of time.** The term "computation of time" means the time within which an act is to be done and shall be computed by excluding the first and including the last day; and if the last day is a Saturday, Sunday or a legal holiday, that day shall be excluded.

**County.** The term "county" means the County of Onslow, in the State of North Carolina, except as otherwise provided.

**Extraterritorial jurisdiction (ETJ).** That land lying within one mile in all directions of the corporate limits of the town, and not located in the corporate limits of any other municipality, nor within any part of that area lying within the extraterritorial jurisdiction of any other municipality.

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

**Governing body.** The term "governing body" means the governing body of Holly Ridge, North Carolina.

**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.

**Mayor.** The term "the mayor" means the mayor of the Town of Holly Ridge.

**Month.** The term "month" means a calendar month.

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

**Oath.** The term "oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

**Officials, boards, commissions, etc.** Whenever reference is made to an "official," a "board" or a "commission" by title only, it shall be deemed to refer to the official, board or commission of the town.

**Or, and.** The term "or" may be read "and," and the term "and" may be read "or," if the

sense requires it.

**Owner.** The term "owner," as applied to a building or land, includes 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 term "person" includes a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

**Personal property.** The term "personal property" includes every species of property except real property as herein defined.

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

**Property.** The term "property" includes real and personal property.

**Real property.** The term "real property" includes lands, tenements and hereditaments.

**Shall/may.** The term "shall" is mandatory; the term "may" is permissive.

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

**Signature.** The term "signature" or "subscription" includes a mark when the person cannot write.

**State.** The term "state" means the State of North Carolina, except as otherwise provided.

**Statute references.** Whenever reference is made, for example, to G.S. 160A-272, it shall be construed to refer to General Statutes of North Carolina, section 160A-272, as amended, or to whatever section is cited.

**Street.** The term "street" means and includes any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, or bridge and the approaches thereto within the town.

**Tenant.** The term "tenant" or "occupant," as applied to building or land, includes any person who occupies the whole or a part of such building or land whether alone or with others.

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

**Town.** The term "town" means the Town of Holly Ridge in Onslow County, North Carolina, except as otherwise provided.

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

**Year.** The term "year" means a calendar year.

### **Section 1-3. - Provisions considered as continuations of existing ordinances**

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

### **Section 1-4. - Section designations**

The headings of the several sections of this Code printed in bold-face 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.

### **Section 1-5. - 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 on 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.

### **Section 1-6. - Criminal penalty; not exclusive remedy; continuing violations; enforcement**

(a) Unless otherwise specifically provided, violation of any provision of the code or any other Town ordinance shall subject the offender to the remedies hereinafter provided except that where the North Carolina General Statutes provide specific civil remedies for violations of provisions of the code adopted pursuant to such statutes, such remedies available to the Town for enforcement of this code shall be in addition to the remedies hereinafter stated; and provided further that no criminal penalties shall be applicable unless specifically stated in the applicable section of the Code.

(b) Any person who violates any section of the code shall be guilty of a class 3 misdemeanor and shall be punished by a fine of not more than (\$500.00) or by imprisonment as set out in N.C.G.S. sec. 14-4, provided that the Town may elect to treat such violation as a civil infraction and proceed with imposition of a civil penalty or pursue other civil action as provided in this Article.

(c) In addition to any civil or criminal penalties set out in this section, elsewhere in the code or by any other applicable law, 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.

- (d) In addition to any civil or criminal penalties set out in this section, elsewhere in the Code or by any other applicable law 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. Such order of abatement may direct that;
  - (1) Buildings or other structures on the property be closed, demolished or removed;
  - (2) Fixtures furniture or other movable property be removed from the property;
  - (3) Grass and weeds be cut;
  - (4) Improvements or repairs be made; or
  - (5) Any other action be taken that is necessary to bring the property into compliance with this Code or such other law.

If the offender fails or refused to comply with an injunction or with an order of abatement within the time allowed by the court, the Town may at its sole option, execute the order of abatement and in such event, the Town shall be entitled to all remedies set out in N.C.G.S. sec. 106A-175, including without limitation the imposition of a lien upon the subject property.

- (e) The provisions of this Code and any other Town ordinances may be enforced by one, all of any combination of the remedies authorized and prescribed by this Article.
- (f) Except as specifically provided otherwise, each day's continuing violation shall be a separate and distinct offense.
- (g) Each department supervisor of the Town shall have the authority to issue citations for civil infractions. All other Town employees shall have such authority to issue citations for civil infractions as their respective department heads shall set out by written policy, which may be changed from time to time in the department head's discretion or as required by Council.
- (h) Civil infraction citations shall be prepared on a form prescribed by the Town

Attorney. Civil infraction citations shall set out at least the following:

1. The name and address of the offender and such other identifying information as may be available to the issuing official.
2. The nature of the violation and section of the code violated.
3. The date and location of the violation.
4. An order to immediately cease the violation (if applicable), or if the violation is in the nature of an offense for which an order of abatement would be appropriate, a statement of a reasonable time within which the violation must be abated.
5. The name and title of the issuing official.
6. A statement (if applicable) that the violation for which the civil infraction citation is issued must be corrected by the deadline for paying the civil penalty imposed therein and that failure of the offender to correct the violation may result in the issuance of additional civil infraction citations.
7. The amount of the civil penalty, which shall be fifty dollars (\$50.00) and instructions to the offender to pay the penalty either in person to the Town Clerk or the Finance Clerk at Town Hall, or alternatively by first class mail addressed to Town Hall such that the payment arrives at Town Hall within fifteen (15) day after issuance of the civil infraction citation. All payments shall be in cash or cash equivalent (e.g. money order or official bank check).
8. A statement of the issuing/serving official(s) of the date, time, and location issued and the date, time, location, and method of service upon the offender.

Civil infraction citations and other legal process may be issued for each day the offense continues until the action required of the offender is corrected.

- (I) The Town Manager is hereby declared to be the Town's Chief Code Enforcement Officer.
- (j) In any case in which the civil infraction citation is issued by any Town official other than the Town Manager, the offender shall have the right to appeal the civil infraction citation to Town Manager. In the case of a civil infraction citation issued by the Town Manager, whether in his capacity as Town Manager or as code Enforcement Officer, the offender shall have the right to appeal to the board of Adjustment.
- (k) Notwithstanding subsection (b) above, any motor vehicle violation of this code that would be an infraction pursuant to N.C.G.S. Ch. 20 if it occurred on a street, highway or public vehicular area under the jurisdiction of the State of North

Carolina shall also be a civil infraction pursuant to this Code.

- (l) Nothing herein may be interpreted or construed as contravening any law of the State of North Carolina.

### **Section 1-7. Severability of parts of code**

It is hereby declared to be the intention of the governing body 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 governing body without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

### **Section 1-8. Damaging ordinances prohibited**

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

### **Section 1-9. - 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 governing body. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the governing body or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code, and shall also include all amendments to the charter during the period. 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 "section \_\_\_\_\_ 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 into the Code; but, in no case, shall the codifier make any change in the meaning or effect of the ordinance material included in the supplement or already embodied in the Code.

#### **Section 1-10. - Provisions reserved from repeal**

Nothing in this Code, at the time of its adoption, or the ordinance adopting this Code, shall be construed to repeal or otherwise affect the validity of any of the following ordinances in effect at the time of adoption of this Code:

- (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 city or authorizing the issuance of any bonds of the town or any evidence of the town's 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, etc., 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 such 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) Any ordinance relating to social security and retirement benefits for town officers and employees;
- (14) Any administrative ordinances or resolutions of the town not in conflict or inconsistent with the provisions of this Code;
- (15) Any ordinance levying or imposing taxes not included in this Code;
- (16) Any ordinance establishing or prescribing street grades in the town;
- (17) Any ordinance extending extraterritorial jurisdiction;  
nor shall such ordinance be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed. All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set forth at length in this Code.

**State law reference**— Governing body may omit ordinances of limited interest or transitory nature from code, G.S. 160A-77(a).

**Section 1-11. - Ordinances codified by entries on official map books or official lists and schedules**

- (a) The following ordinances are codified by appropriate entries on official map books, as retained in the clerk's office or such other office designated by the governing body:
  - (1) Establishing or amending boundaries of zoning districts;
  - (2) Designating the location of traffic control devices;



- (3) Designating areas or zone where regulations are applied to parking, loading, bus stops, or taxicab stands;
  - (4) Establishing speed limits;
  - (5) Restricting or regulating traffic at certain times on certain streets, or to certain types, weights or sizes of vehicles;
  - (6) Designating the location of through streets, stop intersections, yield-right-of-way intersections, waiting lanes, one-way streets, or truck traffic routes;
  - (7) Establishing regulations upon vehicle turns at designated locations.
- (b) Ordinances establishing utility rates, fees for public enterprise services, and all other fees shall be codified by entry upon official lists or schedules maintained by the town, and retained in the office of the town clerk.

**State law reference**— Ordinances which may codified by entries on maps, lists and schedules, G.S. 160A-77(b), (b)(1).