

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

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§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.*

(1) Words and phrases shall be taken in their plain, or ordinary and usual sense.

(2) However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD OF ALDERPERSONS. The governing body of the Town of Long View, North Carolina.

CHARTER. The Charter of the Town of Long View, North Carolina.

§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the Town of Long View shall be designated as the Code of Long View, North Carolina, and may be so cited.

§ 10.02 INTERPRETATION.

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 state law.

CODE, THIS CODE, or THIS CODE OF ORDINANCES. This municipal code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

COUNTY. Catawba County and Burke County, North Carolina.

GOVERNOR. The Governor of North Carolina.

JOINT AUTHORITY. All words giving a joint authority to 3 or more persons or officers shall be construed as giving that authority to a majority of the persons or officers.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**.

OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT. An officer, office, employee, commission, or department of this municipality unless the context clearly requires otherwise.

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. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PERSONAL PROPERTY. Every species of property except real property.

PRECEDING or FOLLOWING. Next before or next after, respectively.

PROPERTY. Includes real and personal property.

REAL PROPERTY. Includes lands, tenements, and hereditaments.

SHALL. The act referred to is mandatory.

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

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

STATE. The State of North Carolina.

STREET. Any public way, road, highway, street, avenue, boulevard, parkway, dedicated alley, lane, viaduct, bridge, and the approaches thereto within the city 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 the building or land, whether alone or with others.

TOWN. The Town of Long View, North Carolina.

WRITTEN. Any representation of words, letters, or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this city shall be by the following rules, unless the 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) *Acts by assistants.* When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, the requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(C) *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.

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

§ 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever in 1 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.

§ 10.09 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this city 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.

§ 10.10 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 as 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.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state and federal laws, shall be the official time within this city for the transaction of all municipal business.

§ 10.12 REASONABLE TIME; COMPUTING 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) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

§ 10.13 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects 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.

§ 10.14 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.

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCES.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as

fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

§ 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) (1) 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 herein.

(2) When subsequent ordinances repeal any chapter, section, or subsection, or any portion thereof, the repealed portions may be excluded from this code by omission from reprinted pages.

(3) The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence that the subsequent ordinances numbered or omitted are readopted as a new code by the town.

(B) Amendments to any of the provisions of the code shall be made by amending the provisions by specific reference to the section number of this code in language substantially similar to the following: "Section _____ of the Code of Ordinances, Town of Long View, North Carolina, is hereby amended 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, language substantially similar to the following shall be used: "The Code of Ordinances, Town of Long View, North Carolina, is hereby amended by adding a section, to be numbered _____, which section shall read 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.

§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance and the amending ordinances, if any, are listed following the text of the code section. *Example:* (Ord. 10, passed 5-13-1960; Am. Ord. 15, passed 1-1-1970; Am. Ord. 20, passed 1-1-1980; Am. Ord. 25, passed 1-1-1985)

(B) (1) A statutory cite included in the history indicates that the text of the section reads substantially the same as the statute. *Example:* (G.S. § 160A-11) (Ord. 10, passed 1-17-1980; Am. Ord. 20, passed 1-1-1985).

(2) A statutory cite set forth as a “statutory reference” following the text of the section indicates that the reader should refer to that statute for further information. *Example:*

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

For provisions concerning the inspection of public records, see G.S. §§ 139-1 et seq.

(C) If a section of this code is derived from the previous code of ordinances of the town published in 1994 and subsequently amended, the 1994 code section number shall be indicated in the history by “(1994 Code, § ____).”

§ 10.99 GENERAL PENALTY.

(A) *Enforcement of ordinances; other infractions.*

(1) Except as otherwise specifically set forth in this code, a violation of any provision of the Town of Long View Code of Ordinances, the Town of Long View Land Development Code or any other town ordinance shall be a misdemeanor as provided by G.S. 14-4(a), unless it is an infraction as provided by G.S. 14-4(b). For each such violation, a criminal citation or citations may be issued by the enforcement authority, to be processed through the criminal courts of the State of North Carolina

(2) Violation of any provision or sections of the Town of Long View Code of Ordinances, the Town of Long View Land Development Code or any other town ordinance may subject the offender to civil penalties as established herein.

(3) Nothing contained herein is to imply that any town representative shall have more authority than allowed by the laws of the State of North Carolina regarding criminal citations and enforcement proceedings.

(B) *Infractions either criminal misdemeanor or civil infractions.*

(1) Any person who shall violate an ordinance of the town shall be guilty of a Class 3 misdemeanor and may be fined not more than \$500, or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code , whichever is less.

(2) A violation of any provision of this code may subject the offender to a civil penalty in the amount of not more than \$500, unless some other amount shall be specifically delineated, which may be recovered by the town in a civil action in the nature of

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debt if the offender does not pay the penalty within a period of 72 hours after he has been cited for violation of the ordinance.

(C) *Notice of violation.* All citations shall be in writing, signed by the Town Manager or any designee of the Town Manager charged with the enforcement of any ordinance of the town which has been violated, and shall be delivered to the offender either at the location of the alleged violation, at any other place where he may be found within the corporate limits of the town, or mailed to the offender either at his residence, his place of business or any other place where such individual regularly receives mail.

(D) *Frequency of violation.*

(1) Any individual who shall continue to violate any provision of the Town of Long View Code of Ordinances, the Town of Long View Land Development Code or any other town ordinance after receipt of notice of such alleged violation through issuance of any written notice of infraction or criminal citation shall be deemed to have committed a separate and distinct offense from the original infraction, regardless of the frequency of the occurrence if an individual acting with reasonable diligence could cease the action or undertake the action, as appropriate, which is the underlying cause of the offense, or correct the condition so that no violation continues to exist.

(2) Each day's continuing violation of the following chapters of this code shall be a separate and distinct offense, unless otherwise specifically delineated in the Town of Long View Code of Ordinances, the Town of Long View Land Development Code:

- (a) Title V - Garbage and Waste;
- (b) Title VII - Traffic Code;
- (c) Title IX - General Regulations;
- (d) Title XI - Business Regulations;

(e) Title XIII - General Offenses;

(f) Title XV - Land Usage.

Violations of the designated titles shall include violations of the regulatory codes adopted therein by reference.

(E) *Fines and civil penalties.* Unless otherwise specifically provided in this code and authorized by state law, no violation of the Town of Long View Code of Ordinances, the Town of Long View Land Development Code may be punished by a fine or civil penalty in excess of \$500. Unless otherwise specifically provided in this code, the Town of Long View Land Development Code or the Town of Long View Fee Schedule (attached as Exhibit B to Ordinance Co-02-2013 and incorporated herein by reference), fines or civil penalties shall be established for all offenses as follows:

(1) The penalty for the first violation of any code provision within a period of 12 consecutive months preceding the date of violation shall be punished by a fine or civil penalty of \$50.

(2) The penalty for the second through fourth violation of any code provision within a period of 12 consecutive months preceding the date of violation shall be punished by a fine or civil penalty of \$100.

(3) The penalty for the fifth through tenth violation of any code provision within a period of 12 consecutive months preceding the date of violation shall be punished by a fine or civil penalty of \$250.

(4) The penalty for the violation of any code provision beyond the tenth violation within a period of 12 consecutive months preceding the date of violation shall be punished by a fine or civil penalty of \$500.

(5) If any person shall violate an ordinance of the town regulating the operation or parking of

vehicles, such person shall be responsible for an infraction and shall be required to pay a civil penalty of not more than \$50.

(F) *General provisions.*

(1) Nothing provided in this chapter shall limit the town's ability to secure injunctions and abatement orders to further insure compliance with its ordinances as provided by this section.

(a) Any action to recover a civil penalty may be joined in an action for appropriate equitable remedy, including injunctions and orders of abatement and including an action to recover damages owing to the town by reason of expenses incurred by the town in abating, correcting, limiting and otherwise dealing with the harmful effects of the offending action.

(b) Any provision of this code or any other 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. 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.

(c) 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 Rules of Civil Procedure in general and Rule 65 in particular.

(d) In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the case. 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 this code or such 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 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.

(B) A violation of any provision of the Town of Long View Code of Ordinances, the Town of Long View Land Development Code or any other town ordinance may be enforced by any remedy provided by G.S. 160A-175.

(C) 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.

(Am. Ord. passed 10-13-2008; Am. Ord. CO-02-2013, passed 12-12-2013)

Statutory reference:

For provisions concerning enforcement of ordinances, see G.S. § 160A-175

