

CHAPTER 1 – GENERAL PROVISIONS

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Section 1. Designation and Citation of Code.

The ordinances embraced in this and the following chapters, parts, articles and sections constitute and shall be designated as the “Columbus County North Carolina Code of Ordinances”, and so recognized by this title or the abbreviated title of the “Code” as may be cited herein.

Section 2. Rules of Construction and Definitions.

All ordinances, resolutions and this Code shall have the following definitions unless specifically defined within chapters, parts, articles or sections of the Code or any ordinance amending this Code.

Board of Commissioners shall mean the governing body of Columbus County, North Carolina.

Code shall mean the Columbus County North Carolina Code of Ordinances (see Section 1 of this Chapter)

Computation of time shall not include the first full day following the date upon which such notice, proclamation or act is made.

County shall mean Columbus County, North Carolina, a county chartered by the State of North Carolina.

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Day shall mean any particular calendar day in its entirety.

Delegation of Authority means whenever an article, part, section or provision appears to require a department head or other position, office or employee to perform a duty; it shall be construed to authorize said individual to authorize designated individuals the delegated authority to act on their behalf unless such delegation is restricted by law or a provision thereof.

Following shall be construed to mean the next immediately after.

Gender (he, his, or him) references shall be construed to mean any person, firm or entity. (See **Person**)

G.S. shall mean the General Statutes of the State of North Carolina. (Also **N.C.G.S./NCGS**)

Highway shall mean any public road within the County regardless of design classification and include the full width of the right-of-way whether dedicated, or designated for the public. (Also **Street**)

In writing shall be construed to include any symbolic representations through illustrations, words, letters, numeric characters, including other illustrative means, in the original or reproduction, electronic or upon paper or other form of medium.

Joint Authority shall mean authority granted to a simple majority of the persons designated unless otherwise specifically declared.

May shall be construed as permissive, when not used in the context of a name.

Month shall mean any particular calendar month in its entirety.

NCAC shall mean the North Carolina Administrative Code.

N.C. Admin. Code shall mean the North Carolina Administrative Code.

N.C.G.S./NCGS shall mean the General Statutes of the State of North Carolina. (Also **G.S.**)

Number shall include both the singular and plural meaning of the word.

Oath shall be construed to include affirmation, affirmed, swear, and sworn.

Occupant shall mean any person who occupies the whole or part of such building and/or land, as one or as part of a group, or within a group. (See **Tenant** and **Person**)

Owner shall include part owner, partner, joint ownership, joint tenancy, tenant by the entirety of the whole or part, tenant in common, and tenant in partnership of personal or personal property, including any modifications and improvements thereto.

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Person shall mean any legal person including an association, body politic, corporation, firm, individual, and partnership.

Precede or preceding shall be construed to mean the next immediately before.

Shall is and means mandatory.

Sidewalk shall mean any portion of a public highway or street constructed for pedestrian service.

Signature shall mean a mark representative of a person's legal name, whether or not it is legible, accurately spelled or through substitute means such as electronic. (See **Person**) **State** shall mean the State of North Carolina.

Street shall mean any public road within the County regardless of design classification and include the full width of the right-of-way whether dedicated, or designated for the public. (Also **Highway**)

Subscription shall mean signature. (See **Signature**)

Tenant shall mean any person who occupies the whole or part of such building and/or land, as one or as part of a group, or within a group. (See **Occupant** and **Person**)

Word Tense shall include past, present and future as if used to mean each.

Written shall be construed to include any symbolic representations through illustrations, words, letters, numeric characters, including other illustrative means, in the original or reproduction, electronic or upon paper or other form of medium.

Year shall mean any particular calendar year when used as a reference to an event, occurrence or point in time; however, when used as a measure of time shall mean a period of 365 consecutive days commenced upon the next full calendar day. (See **Computation of Time**)

Section 3. Headings.

Headings appearing as titles to chapters, parts, articles and sections may indicate part or all of the content of that portion of the Code to which they appear and shall not be construed as part of the Code for purposes of interpretation of laws, meanings, regulations and statute. Headings shall not be construed to mean all provisions applicable to any person or property contained within such portion of the Code.

Section 4. Continuation of Existing Ordinances.

Provisions appearing in this Code which are the same as the prior Code of Ordinances shall be construed to be in continuation as if unchanged by the adoption of this Code for the purposes of administration, enforcement, appointment and recognition, and not a re-enactment or new enactment of the identical provisions.

Section 5. Severability.

If any chapter, part, article, section, specific provision or standard of this code is found by a court of competent jurisdiction to be invalid or unenforceable for any reason, the decision of the court shall not affect the validity or enforceability of any other chapter, part, article, section, specific provision or standard of this code except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

Should any chapter, part, article, section, specific provision or standard of this code be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect, impair, or invalidate the validity of the Code as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Should state legislature of the State of North Carolina enact legislation enabling or modifying the authority of any chapter, part, article, section, specific provision or standard of this code the act shall not affect the validity or enforceability of any other chapter, part, article, section, specific provision or standard of this code except the provision or provisions in question.

Section 6. General Penalty; Continuing Violations; Ordinance Enforcement.

- A. Unless otherwise specifically provided, violation of any provision of this Code or any other County ordinance shall subject the offender to the remedies hereinafter provided; except, that where the General Statutes of North Carolina provide specific civil remedies for violations of provisions of this Code adopted pursuant to such statutes, such remedies available to the County for enforcement of this Code shall be in addition to the remedies hereinafter stated; provided that no criminal penalties shall be applicable unless hereinafter stated in this section as being applicable to specific chapters or provisions of this Code.
- B. Violations of any provision of the chapters and sections of this Code shall be a misdemeanor and punishable 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 County ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such cases, 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 county 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 County 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 provisions occurs, the county may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and order of abatement

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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 part of the judgment in the cause. An 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 buildings on 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 ordinance.
- F. 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 County may execute the order of abatement. The County 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 the 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 frame fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.
- G. The provisions of this Code and any other County ordinances may be enforced by one, all 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.
- H. Except as otherwise specifically provided, each day's continuing violation of any provision of this code or any other County ordinance shall be a separate and distinct offense.
- I. Any ordinances hereafter adopted by the Board of Commissioners of the County, 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.

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- J. Upon determination of a violation of any section of this Code, the penalty for which is a civil penalty, the County shall 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 in a civil proceeding, stating a reasonable period of time in which the violation must be abated. The warning citation shall specify that a second citation shall incur a civil penalty.
- K. Upon failure of the violator to obey the warning citation, a civil citation shall be issued by the appropriate official of the County and either served directly on the violator or his 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 such citation. The citation shall direct the violator to appear before the Office of the County Treasurer 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 be 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 a citation within fifteen (15) days of its issuance and pay the penalty prescribed therein, the County may institute a civil action in the nature of debt in the appropriate division of the North Carolina general court of justice for the cancelation of the penalty.

Section 7. Amendments to the Code of Ordinances.

- A. All ordinances passed subsequent to the adoption of this Code which amend, repeal, replace, or in any way modify this Code shall be numbered in accordance with the numbering system herein. Failure to comply with the numbering system shall not constitute a violation of this Code, nor shall such failure to number in accordance with this system have any effect on the applicability or validity of the Code or the ordinance. When an ordinance duly adopted by the Board of Commissioners repeal any chapter, part, article, section, provision or standard thereof, such repealed portions may be excluded from this Code by omission from reprinted pages. New ordinances duly adopted, signed and recorded in the Office of the County Clerk shall be prima facie evidence of such subsequent ordinances until such time as this Code, containing the subsequent ordinances, is adopted by the Board of Commissioners.
- B. Amendments to any of the provisions of this Code shall be made by specific reference to the section number of this Code in the following form: “Chapter *(insert chapter number including references to part number, article number and section number if amending*

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portions) of the Columbus County North Carolina Code of Ordinances is hereby amended to read as follows: *(insert complete language)*”

- C. Any chapter, part, article, or section to be repealed shall be specified in the ordinance repealing such language.
- D. Additional chapters, parts, articles or sections to be added to the Code shall be amended to the Code as specified in section 7.b of this chapter.

Section 8. Codification of Amendments to the Code.

The County Attorney, or his designee, shall update the Code annually to reflect the ordinances having the effect of permanent changes. He, or his designee, may make necessary modifications to the ordinances amending the Code; however, modifications shall be only to such extent as to modify headings, numbering, correcting references to numbering, replace the word “ordinance” with “chapter”, “part”, “article”, or “section” as appropriate, and insert foot-notes containing any notations or references to clarify amendments to this Code. Such clarifications may include rulings of interpretation by the Board of Adjustment or other appeals body having authority to interpret the meaning of all or part of this Code.

Section 9. Certain Ordinances not part of this Code.

Ordinances, resolutions, and proclamations affecting the following shall not be deemed a part of this Code unless so ordained therein:

- A. An offense, contract, penalty, right to any penalty or forfeiture incurred, or right established or accruing before the date of this ordinance;
- B. Ordinances imposing or establishing a tax and other annual budgetary revenue or expense allocations;
- C. Ordinances authorizing contracts, franchise agreements, special events, special recognitions, and capital project ordinances including promises or guarantees of payments;
- D. Ordinances establishing administrative policies for employees or personnel including contracts for salaries of officers;
- E. Ordinances making declaration of public right-of-way purposes or abandonment;
- F. Ordinances amending maps;
- G. Ordinances setting forth development agreements;

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- H. Ordinances ordering the removal or demolition of structures;
- I. Ordinances establishing traffic control;
- J. Ordinances establishing rates, fees, or assessments;
- K. Ordinances establishing inter-local agreements with other jurisdictions; and
- L. Ordinances transferring authority between agencies of the state or federal government.

Section 10. Adoption and Enactment of New Code of Ordinances

- A. The Code entitled "Code of Ordinances, County of Columbus, North Carolina" published by Municipal Code Corporation, consisting of chapters 1 through 82, each inclusive, is adopted.
- B. All ordinances of a general and permanent nature enacted on or before September 4, 2007, and not included in the Code or recognized and continued in force by reference therein, are repealed.
- C. The repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.
- D. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished in accordance with the general penalty provision, Section 1-6 in chapter 1, unless otherwise stated. Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is re-enacted in the amendatory ordinance. In addition to the penalty prescribed above, the county may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.
- E. Additions or amendments to the Code when passed in such form as to indicate the intention of the county to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.
- F. Ordinances adopted after September 4, 2007, that amend or refer to ordinances that have been codified in the Code, shall be construed as if they amend or refer to like provisions of the Code.

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G. This ordinance shall become effective November 17, 2015.