

PART II.
THE CODE.
CHAPTER 1.

GENERAL PROVISIONS.

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Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated "The Code of the Town of East Spencer, North Carolina," and may be so cited. Such Code may also be cited as "East Spencer Town Code."

For Charter provision that pleading and proving of town ordinances shall be in accordance with applicable provisions of the general laws of the state, see Char., § 3.7. For state law as to municipal codes of ordinances generally, see G.S., § 160A-77. As to pleading and proof of municipal ordinances, see G.S., § 160A-79.

Sec. 1-2. Definitions and rules of construction.

For state law containing a number of similar definitions and rules for construction of statutes, see G.S., § 12-3. As to definitions of certain terms used in the General Statutes Chapter relating to cities and towns, see G.S. § 160A-1.

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 aldermen or the context clearly requires otherwise:

Board of aldermen. The board of aldermen, or governing body, of the Town of East Spencer, 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 shall be excluded.

*For state law as to computation of time,
see G.S., § 1-593.*

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

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

Governor. The words "governor" or "the governor" shall mean the Governor of 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.

May; shall. The word "may" is permissive; the word "shall" is mandatory.

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

Number. Words used in the singular include the plural and the plural includes 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. "Official time standard" means that whenever certain hours are named in this Code, they shall mean standard time or daylight saving time as may be in current use in this town.

Owner. The word "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 such property.

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 includes every species of property except real property, as herein defined.

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 shall include lands, tenements and hereditaments.

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

Signature or subscription includes a mark when the person cannot write.

State. The words "state" or "this 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, bridge, and the approaches thereto within the town and shall mean the entire width of the right of way between abutting property lines.

Tenant. The words "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.

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

Town. The words "the town" or "this town" shall mean the Town of East Spencer, in the County of Rowan in the State of 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, unless otherwise specified.

Sec. 1-3. Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code, insofar as they are the same or substantially the same as those of ordinances in effect immediately preceding the effective date of this Code, shall be considered as continuations of such ordinance provisions and not as new enactments.

Sec. 1-4. Catchlines of sections.

The catchlines of the several sections of this Code 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 re-enacted.

Sec. 1-5. Severability of parts of Code.

It is hereby declared to be the intention of the board of aldermen 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 they would have been enacted by the board of aldermen without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Sec. 1-6. General penalty; enforcement of ordinances; continuing violations.

(a) Unless otherwise specifically provided, violation of any provision of this Code or any other town ordinance shall be a misdemeanor, as provided by section 14-4 of the General Statutes of North Carolina.

(b) Violation of any provision of this Code or any other town ordinance 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 period of time prescribed by the court after he has been cited for such violation.

(c) 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) 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. 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.

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 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.

(e) 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.

(f) Except as otherwise specifically provided, each day's continuing violation of any provision of this Code or any other town ordinance shall be a separate and distinct offense.

For similar state law, see G.S., § 160A-175.

*As to penalty for violation of town ordinances,
see G.S., § 14-4.*

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