

## Chapter 1 GENERAL PROVISION

### **Sec. 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, County of Richmond, North Carolina," and may be so cited. State law references: Admission of Code in evidence, G.S. 160A-79.

### **Sec. 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:

**City.** As defined in G.S. 160A-1(2).

**Charter.** The term "Charter" shall mean the Charter of the County of Richmond, North Carolina.

**Code.** The term "Code" shall mean the Code of Ordinances, County of Richmond, North Carolina, as designated in section 1-1.

**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.

**State law references: Computation of time, G.S. 1-593.**

**Commissioners.** The terms "commissioners" and "board of commissioners" shall mean the members of the governing body of the County of Richmond, North Carolina.

**County.** The term "county" shall mean the County of Richmond, in the State of North Carolina, except as otherwise provided or local government.

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

**G.S. and General Statutes.** The abbreviation "G.S." and the term "General Statutes" shall mean the latest edition of the General Statutes of North Carolina, as amended.

**Governing board.** means The city council or board of county commissioners. The term is interchangeable with the terms "board of aldermen" and "boards of commissioners" and means any governing board without regard to the terminology employed in charters, local acts, other portions of the General Statutes, or local customary usage.

**Governor.** The terms "governor" and "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 term "may" is permissive, the term "shall" is mandatory.

**Month.** The term "month" shall mean a calendar month.  
Number. Words used in the singular include the plural and the plural includes the singular number.

**Oath.** The term "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 terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

**Official time standard.** The term "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 county.

**Officials, boards, commissions, etc.** 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 County of Richmond, North Carolina."

**Owner.** The term "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.** An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

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

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

**Property.** All real property subject to land-use regulation by a local government. The term includes any improvements or structures customarily regarded as a part of real property.

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

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

**Signature and subscription.** The terms "signature" and "subscription" includes a mark when the person cannot write.

**State.** The terms "state" and "this state" shall be construed to mean the State of North Carolina, except as otherwise provided.

**Street.** The term "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 terms "tenant" and "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.

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

**Town.** The terms "town" and "the town" shall mean all incorporated areas within the County of Richmond in the State of North Carolina, except as otherwise provided.

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

**Year.** The term "year" shall mean a calendar year, unless otherwise specified.  
State law references: Similar rules of construction of statutes, G.S. 160A-1.

**Sec. 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 herein, shall be considered as continuations thereof and not as new enactments.

**Sec. 1-4. Catchlines of sections; history notes and references.**

- (a) 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 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.

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

It is hereby 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, 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 commissioners 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 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 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 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 a provision 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 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 a 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.

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 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.

- (f) 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.
- (g) 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.
- (h) 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.
- (i) 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, or a Notice of Violation 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 or Notice of Violation shall specify that a second citation shall incur a civil penalty.
- (j) Upon failure of the violator to obey the warning citation, or Notice of Violation, a civil citation with penalty 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 county treasurer, located in the County Administration Building, 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 a citation within 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 collection of the penalty, an administration fee, and legal fees.
- (k) Unless otherwise stated or authorized in a particular Chapter of this Code of Ordinance, the following schedule shall be observed for monetary fines of Civil Penalties:
  - 1. \$100 for the first 5 Civil Citation with Penalty
  - 2. \$500 for the second 5 Civil Citations with Penalty

3. \$1,000 for each subsequent Civil Citations with Penalty.

An administrative fee of \$30.00 shall be added to each Civil Citation with Penalty

(Ord. of 1/8/2007)

State law references: Similar provisions, G.S. 160A-175, penalty for violation of county ordinances, G.S. 14-4.

**Sec. 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 hereof and printed for inclusion herein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such 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 such subsequent ordinances until such 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, County of Richmond, 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, County of Richmond, North Carolina, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which such section reads as follows: . . . ." The new section shall then be set out in full as desired.*

(c) 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.

**Sec. 1-8. Supplementation of Code.**

(a) By contract or by county 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 thereby 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 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 "sections to" (inserting section numbers to indicate the sections of the Code, which embody the substantive sections of the ordinance, incorporated into the Code).
  - (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.

**Sec. 1-9. Ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall be construed to 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 loans or the payment of money for the county or authorizing the issuance of any bonds of the county or any evidence of the county's indebtedness;
- (3) Any contract or obligation assumed by the county;
- (4) Any ordinance fixing the salary of any county officer or employee;
- (5) Any right or franchise granted by the county;
- (6) *Deleted*

- (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 therefor;
- (10) *Deleted*
- (11) *Deleted*
- (12) Any ordinance describing or altering the boundaries of the county;
- (13) The administrative ordinances or resolutions of the county not in conflict or inconsistent with the provisions of this Code;
- (14) Any ordinance levying, or imposing taxes not included herein;
- (15) *Deleted*
- (16) Any personnel ordinance;
- (17) nor shall such ordinance be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this chapter; and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this section.

(Ord. 1/8/2007)

State law references: Statutes not repealed by General Statutes, G.S. 16



