

TITLE I: GENERAL PROVISIONS

Chapter 10

GENERAL CODE CONSTRUCTION; GENERAL PENALTY

CHAPTER 10: GENERAL CODE CONSTRUCTION; GENERAL PENALTY

Section

10.01	Title of code
10.02	Interpretation
10.03	Application to future ordinances
10.04	Captions
10.05	Definitions
10.06	Rules of interpretation
10.07	Severability
10.08	Reference to other sections
10.09	Reference to offices
10.10	Errors and omissions
10.11	Official time
10.12	Reasonable time; computing time
10.13	Ordinances repealed
10.14	Ordinances unaffected
10.15	Effective date of ordinances
10.16	Repeal or modification of ordinances
10.17	Ordinances which amend code; effect of new ordinances
10.18	Section histories; section headings; statutory references
10.19	Continuation of existing ordinances
10.99	General penalty

' 10.01 TITLE OF CODE.

This codification of ordinances by and for the Town of Robbins shall be designated as the *Code of Robbins, 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.

' 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.* Words and phrases shall be taken in their plain, or ordinary and usual sense. 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.

CHARTER. The Charter of the Town of Robbins, North Carolina.

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

COMPUTATION OF TIME. The time within which an act is to be done shall be computed by excluding the first and the last day; and if the last day is Saturday, Sunday or a legal holiday, that day shall be excluded.

BOARD. The Mayor and Board, or governing body, of the Town of Robbins, North Carolina.

COUNTY. The County of Moore, North Carolina.

G.S. or GENERAL STATUTES. The latest edition of the **GENERAL STATUTES** of North Carolina, as amended.

GOVERNOR. The Governor of North Carolina.

JOINT AUTHORITY. Except as otherwise provided by law, all words giving a joint authority to three or more persons or officers shall be construed as giving the authority to a majority of persons or officers.

LAND USE ADMINISTRATOR. The person or persons who have been assigned to administer and enforce Ch. 152, the Unified Development Ordinance. See also ' 152.027.

MAY. The act referred to is permissive.

MAYOR. The Mayor of the Town of Robbins, North Carolina.

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 curblin 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 town 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 Robbins, in the County of Moore, North Carolina.

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

YEAR. A calendar year, unless otherwise expressed.

(Ord. 217, passed 12-13-2012)

Statutory reference:

Computation of time, see G.S. ' 1-593

' 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this town 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 Aand/or@, if the sense requires it.

(B) *Acts by assistants.* When a statute or ordinance requires an act to be done which may lawfully also be done by an assistant, references to the principal shall be deemed to also include his or her assistants.

(C) *Gender; singular and plural; tenses.* Words denoting the masculine or feminine genders shall be deemed to include the masculine, 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 past or 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.

(Ord. 217, passed 12-13-2012)

' 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 one section reference is made to another section hereof, that 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 town 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, that 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 town 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) In computing any period of time in which an act is to be done, the first day of the act from which the designated time period begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday when the town hall is closed for transactions, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a legal holiday when the town hall is closed for transactions. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday.

(Ord. 223, passed 12-13-2012)

' 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.

(A) 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.

(B) 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 the payment of money for the town 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 and the like, 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 therefor;

(10) Any zoning ordinance or zoning map amendment;

(11) Any ordinance dedicating or accepting any subdivision plat;

(12) Any ordinance describing or altering the boundaries of the town;

(13) The administrative ordinances or resolutions of the town not in conflict or inconsistent with the provisions of this code;

(14) Any ordinance levying or imposing taxes not included herein;

(15) Any ordinance establishing or prescribing street grades in the town; and/or

(16) Any personnel ordinance.

(C) Nor shall any 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 ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

Statutory reference:

Statutes not repealed by General Statutes, see G.S. ' 164-7

' 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 CODE; EFFECT OF NEW ORDINANCES.

(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 division, or any portion thereof, the 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 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 provisions by specific reference to the section number of this code in language substantially similar to the following: ASection of the Code of Ordinances, Town of Robbins, 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: AThe Code of Ordinances, Town of Robbins, 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.
(Ord. 217, passed 12-13-2012)

' 10.18 SECTION HISTORIES; SECTION HEADINGS; STATUTORY REFERENCES.

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

(2) A statutory cite set forth as a Astatutory 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:

Inspection of public records, see G.S. " 132-1 et seq.

(C) If a section of this code is derived from the prior code of ordinances of the town, the prior code section number shall be indicated in the history by (1993 Code, ' _____). The history notes following sections and the references scattered throughout the code are not part of the code, but are merely for the benefit for the user of the code.

' 10.19 CONTINUATION 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.
(1993 Code, ' 10.04)

' 10.99 GENERAL PENALTY.

Except as otherwise provided in this code:

(A) In accordance with G.S. ' 14-4:

(1) A violation of an ordinance regulating the operation or parking of vehicles shall be an infraction and shall subject the offender to a criminal penalty of not more than \$50; and

(2) Violation of any of the following provisions of this code shall be a Class 3 misdemeanor and shall subject the offender to a criminal fine of not more than \$500.

- (a) Chapter 90, "Nuisances,"
- (b) Chapter 91, "Streets and Sidewalks,"
- (c) Chapter 93, "Animal Control,"
- (d) Chapter 115, "Farmers Day,"
- (e) Chapter 150, "Miscellaneous Offenses,"
- (f) Chapter 131, "Littering," and
- (g) Chapter 132, "Graffiti Control."

A violation of any other provision of this code shall not be a Class 3 misdemeanor and shall not be subject to a criminal fine.

(B) A violation of any of the provisions of this code shall subject the offender to a civil penalty in an amount to be determined in accordance with the following standards:

(1) In determining the amount of the civil penalty assessment, the following factors shall be considered and the decision levying a civil penalty shall cite those factors deemed applicable:

- (a) Whether the violation poses or could pose a threat to the public health or to private property;
- (b) The duration and gravity of the violation;
- (c) The cost of rectifying the damage;
- (d) The amount of money saved by noncompliance;
- (e) Whether the violation was committed willfully or intentionally, negligently, or as the result of an unforeseeable or unavoidable accident;
- (f) Whether the violator promptly ceased the violation upon notice by the Town and took whatever steps were reasonably possible to limit or correct any damage caused by the violation;
- (g) The prior record of the violator in complying or failing to comply with the provisions of this code or any of its requirements, including violations of any conditions and safeguards established in connection

with the issuance of variances, special use permits, conditional use permits, or conditional zoning districts;

- (h) The cost to the Town of the enforcement procedures;
- (i) The scope and scale of the project where the violation occurs; and
- (j) Whether the civil penalty is levied for a single day's violation or a single event or whether it is levied on a daily basis for a continuing violation, as authorized under Section 10.99(E). Civil penalties levied on a daily basis may cumulatively exceed the \$200.00 cap set forth in this subsection;

(2) Using the factors listed above, the official enforcing this ordinance shall determine to what extent the violation deviates from the requirements of this code and what potential for harm the violation poses. The following chart shall be used to calculate the penalty to be assessed for a single event and for each day of a continuing violation:

		EXTENT OF DEVIATION FROM CODE		
		Minor	Moderate	Major
POTENTIAL FOR HARM	Minor	\$50	\$50	\$75
	Moderate	\$75	\$100	\$125
	Major*	\$150	\$175	\$200

*Violations that pose immediate or severe threats to the public health or to private property (i.e. threats that pose a greater than major potential for harm) may be assessed a higher penalty than \$200.00 for a single event and/or for daily penalties.

(C) If a person fails to pay this penalty within ten days after being cited for a violation, the town may seek to recover the penalty by filing a civil action in the nature of debt.

(D) The town may seek to enforce this code through any appropriate equitable action, including injunctions and orders of abatement.

(E) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

(F) The town may seek to enforce this chapter by using any one or a combination of the foregoing remedies. (Ord. 217, passed 12-13-2012) (Revised 9-9-2016) (Amended 6-14-2018).