

Chapter 1 GENERAL PROVISIONS¹

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

The provisions in the following chapters and sections shall constitute and be designated as the "Code of Ordinances, City of Wilmington, North Carolina," and may be so cited. Such Code may also be cited as "Wilmington City Code."

(Code 1962, § 1-1)

State law reference(s)—Code of Ordinances, G.S. § 160A-77; ordinance book, G.S. § 160A-78; pleading and proving city ordinances, 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 council or the context clearly requires otherwise:

Bond. When a bond is required, an undertaking in writing shall be sufficient.

City. The words "the city" shall mean the City of Wilmington, in the County of New Hanover and State of North Carolina.

City manager. The words "city manager" shall mean the city manager or the designee of the city manager.

Computation of time. The time within which an act is to be done shall be computed as provided in G.S. section 1A-1, Rule 6.

Council. The words "the council" or "council" shall mean the council or governing body of the City of Wilmington.

County. The words "the county" shall mean the County of New Hanover, North Carolina.

Fee schedule. The words "fee schedule" shall mean the "the City of Wilmington Fee Schedule," as amended, a copy of which is located in the office of the city clerk.

Gender. Any and all gender-specific references shall be interpreted as gender-neutral.

G.S.; General Statutes. "General Statutes" shall mean the General Statutes of North Carolina, as amended, and shall be identified in this document as "General Statutes" or abbreviated as "G.S.."

Joint authority. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

¹County Code reference—Similar provisions, Ch. 1.

Oath. The word "oath" shall be construed to include "affirmation" in all cases in which, by law, an affirmation may be substituted for an oath, and in like cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Owner. The word "owner," applied to building or land, 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 building or land.

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.

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Shall, may. "Shall" is mandatory; "may" is permissive.

Sidewalk. The word "sidewalk" shall mean that portion of a street between the curbline, or the lateral lines of a roadway where there is no curb, and the adjacent property line, intended for the use of pedestrians.

Signature. The word "signature" shall be defined as provided in G.S. section 12-3.

Street, highway. The word "street" or "highway" shall be defined as provided in G.S. section 20-4.01.

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Year. The word "year," except where fiscal year is specifically referred to, shall mean a calendar year.

If any term not defined herein is defined in the General Statutes, that definition shall apply.

(Code 1962, §§ 1-2, 8A-33, 28-38; Ord. No. 0-2004-112, § 1, 12-14-04)

State law reference(s)—Computation of time, G.S. §§ 1-593, 1A-1, Rule 6(a), 159-2; rules construction, G.S. § 12-3; citation of General Statutes, G.S. § 164-1.

Sec. 1-3. Penalties.

Penalties for violations of the various provisions of each chapter of this Code are set forth in the respective chapters. Except as set forth therein, it is not the intention of the council to make a violation of any provision of this Code a criminal offense or to provide for any other penalty.

Sec. 1-4. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type 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.

(Code 1962, § 1-4)

Sec. 1-5. Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of the 1962 Code and all ordinances adopted subsequent to the 1962 Code and included herein, shall be considered as continuations thereof and not as new enactments.

(Code 1962, § 1-3)

State law reference(s)—Construction of amended statute, G.S. § 12-4.

Sec. 1-6. Severability of parts of Code.

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

(Code 1962, § 1-5)

Sec. 1-7. Certain 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 ordinance promising or guaranteeing the payment of money of the city, or authorizing the issuance of any bonds of the city, or any evidence of the city's indebtedness.
- (2) Any ordinance providing for public improvements and assessments therefor.
- (3) Any zoning ordinance or any ordinance regulating or otherwise relating to the subdivision of land.
- (4) Any appropriation ordinance or ordinance providing for an annual budget or for the transfer of funds.
- (5) Any ordinance annexing territory to the city or discontinuing territory as a part of the city.
- (6) Any ordinance granting any franchise, permit or other right.
- (7) Any ordinance approving, authorizing or otherwise relating to any contract or agreement.
- (8) Any ordinance regulating traffic or vehicles at specific locations.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

State law reference(s)—Authority of city to omit designated classes of ordinances from Code, G.S. § 160A-77.

Sec. 1-8. Amendments to Code; effect of new ordinances; amendment 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 re-adopted as a new Code by the city council.

- (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, City of Wilmington, North Carolina, is hereby amended to read as follows." The provisions shall then be set out in full as desired.
- (c) In the event that a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Code of Ordinances, City of Wilmington, North Carolina, is hereby amended by adding a section, to be numbered _____, which section reads 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.

Sec. 1-9. Supplementation of Code.

- (a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the city council. A supplement to the Code shall include all substantive, permanent and general parts of ordinances passed by the city council 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.

Sec. 1-10. Effect of repeal or expiration of ordinance.

The repeal of an ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued, any offense committed, any penalty or punishment incurred or any proceeding commenced before the repeal took effect or the ordinance expired. When any ordinance which repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

(Code 1962, § 1-7)

State law reference(s)—Similar provisions applicable to state laws, G.S. § 12-2.

Sec. 1-11. City seal described.



City Seal

(Code 1962, § 1-8)

Charter reference(s)—Corporate seal, § 1.2.