

Chapter 1 GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Code.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of Ordinances, town of Spring Hope, North Carolina," and may be so cited. The Code may also be cited as the "Spring Hope Code."

State law reference(s)—Code of Ordinances, G.S. 160A-78; adoption of ordinance book, G.S. 160A-78; pleading and proving ordinances, admission of printed codes in evidence, G.S. 160A-79.

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

For the purpose of this Code, unless otherwise specifically provided, the following words and phrases shall have the following meanings:

And, or. Either conjunction shall include the other as if written "and/or," if the sense requires it.

Board of commissioners. The term "board of commissioners" means the governing body of the Town of Spring Hope, North Carolina.

Code or Code of Ordinances. The term "Code" or "Code of Ordinances" means the Code of Ordinances, Town of Spring Hope, North Carolina as designated in section 1-1.

Computation of time. The term "computation of time" means the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is Saturday, Sunday, or a legal holiday, that day shall be excluded.

State law reference(s)—Computation of time, G.S. 1-593.

County. The term "county" means the County of Nash, in the State of North Carolina, except as otherwise provided.

Gender. The term "gender" means words importing the masculine gender include the feminine and neuter.

G.S. The abbreviation "G.S." refers to the latest edition of the General Statutes of North Carolina, as amended.

In the town. The term "in the town" means any territory jurisdiction of which for the exercise of its regulatory power has been conferred on the town by public or private law.

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.

Month. The term "month" means a calendar month.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language. However, technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to that meaning.

Number. Words used in the singular include the plural, and the plural includes the singular number.

Oath. The term "oath" means 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 standards. Whenever certain hours are named in this Code, they shall mean standard time or daylight saving time as may be in current use in the town.

Officials, departments, boards, commissions, committees, etc. Whenever reference is made to "officials," "departments," "boards," "commissions," "committees" etc., by title only, they shall be construed as if followed by the words "of the Town of Spring Hope, North Carolina."

Owner. The term "owner," when applied to buildings or land, includes any part owner, joint owner, tenant in common, joint tenant, or tenant by the entirety, of the whole or part of the building or land.

Person. The term "person" means and includes a corporation, firm, partnership, association, organization, and any other group acting as a unit, as well as an individual.

Personal property. The term "personal property" means every species of property, except real property as herein defined.

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

Property. The term "property" means real and personal property.

Real property. The term "real property" means lands, tenements, and hereditaments.

Sidewalk. The term "sidewalk" means any portion of a street between the curblin and the adjacent property line, intended for the use of pedestrians.

Signature or subscription. The term "signature" or "subscription" include a mark when a person cannot write.

State. The term "state" means the State of North Carolina.

Statutes references. The General Statutes of North Carolina shall be cited to throughout this Code as "G.S."

Street. The term "street" means any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge, and the approaches thereto within the town and the entire width of the right-of-way between abutting property lines.

Tenant or occupant. The term "tenant" or "occupant," when applied to a building or land includes any person who occupies the whole or part of the 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 term "town" means the Town of Spring Hope, in the County of Nash and the State of North Carolina, except as otherwise provided.

Town limits or corporate limits. The term "town limits" or "corporate limits" means the legal boundary of the Town of Spring Hope, North Carolina.

Writing or written. The term "writing" or "written" includes printing and any other mode of representing words and letters.

Year. The term "year" means a calendar year.

State law reference(s)—Similar state law definitions, G.S. 1-593, 12-3, 160A-1.

Sec. 1-3. Catchlines.

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 thereof, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

Sec. 1-4. History notes.

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

Sec. 1-5. References and editor's notes.

The editor's notes and state law references appearing in the Code are merely information to assist the user of the Code and are of no legal effect.

Sec. 1-6. Reference to other sections.

Whenever in one section reference is made to another section hereof, the 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.

Sec. 1-7. Conflicting provisions.

If the provisions of different codes, chapters, or sections of the codified ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be construed so as to be consistent with the meaning or legal effect of the subject matter taken as a whole.

Sec. 1-8. Provisions considered as continuations of existing ordinances.

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

Sec. 1-9. Additions and amendments deemed incorporated in Code.

Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the town to make the same a part hereof, shall be deemed to be incorporated herein, so that reference to the Code shall be understood and intended to include such additions and amendments.

Sec. 1-10. Code does not affect prior offenses, rights, etc.

Nothing in this Code or the ordinance adopting this Code shall affect 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.

Sec. 1-11. Effect of repeal of ordinance.

- (a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.
- (b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

Sec. 1-12. 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 when not inconsistent with this Code:

- (1) Any ordinance promising or guaranteeing the payment of money by the town, or authorizing the issuance of any bonds of the town, or any evidence of the town's indebtedness, or any contract, agreement, lease, deed or other instrument or obligation assumed by the town or creating interest and sinking funds;
- (2) Any right or franchise, permit, or other right granted by any ordinance;
- (3) Any personnel regulations; any ordinance establishing salaries of town officers and employees or civil service rules;
- (4) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing or vacating any street, alley or other public way in the town;
- (5) Any ordinance establishing and prescribing the street grades in the town;
- (6) Any appropriation ordinance or any ordinance levying or imposing taxes;
- (7) Any ordinance providing for local improvements and assessing taxes therefor;
- (8) Any ordinance dedicating or accepting any plat or subdivision in the town;
- (9) Any ordinance establishing the official plat of the town;
- (10) Any zoning map amendment or land use or rezoning ordinance;
- (11) Any ordinance annexing territory or excluding territory from the town;
- (12) Any ordinance prescribing traffic regulations for specific locations, prescribing through streets, parking limitations, parking prohibitions, one-way traffic, limitations on loads of vehicles or loading zones, not inconsistent with this Code;
- (13) Any ordinance creating special districts;
- (14) Any ordinance prescribing rates, fees or charges;
- (15) Any ordinance calling for a municipal election;

and 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 town to omit designated classes of ordinances from Code, G.S. 160A-77.

Sec. 1-13. Procedures to amend the Code.

- (a) All ordinances passed subsequent to the ordinance adopting this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the same numbering system and printed for inclusion in this Code. When subsequent ordinances repeal any chapter, section or subsection or any portion of a chapter, section or subsection, 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 ordinance 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, town of Spring Hope, North Carolina, is hereby amended to read as follows:...." The provisions shall then be set out in full as desired.

- (c) If a new section is to be added to this Code of Ordinances, the following language shall be used: "That the Code of Ordinances, Town of Spring Hope, 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.

(Prior Code, ch. XIV, § 1)

Sec. 1-14. Supplementation of Code.

- (a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the board of commissioners. 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 this Code which have been repealed shall be excluded 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 meaning 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.

State law reference(s)—Authority of town to provide for looseleaf supplementation of Code, G.S. 160A-77.

Sec. 1-15. Severability.

It is 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 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 board of commissioners without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph, or section.

Sec. 1-16. Altering the Code.

It shall be unlawful for any person to change or amend, by additions or deletions, any part or portion of this Code; insert or delete pages, or any portions thereof; or alter or tamper with the Code in any manner whatsoever except pursuant to ordinance or resolution or other official act of the board of commissioners which will cause the law of the town to be misrepresented thereby.

Sec. 1-17. Corporate limits.

By authority granted by the General Statutes of the State of North Carolina, additional territory has been annexed and made a part of the town. The current town boundaries are as shown on the official map of the town that is retained permanently in the office of the town clerk.

Charter reference(s)—Corporate limits, § 2.

State law reference(s)—Boundaries to be as specified by and altered as permitted by law or by local act of the General Assembly, G.S. 160A-21; map of corporate limits to be kept in office of town clerk, G.S. 160A-22.

Sec. 1-18. General penalty.

- (a) Unless otherwise provided in this Code of Ordinances, each violation of this Code shall constitute a misdemeanor, except as otherwise provided by statute; and violations of such provisions of this Code shall be punished by a fine not exceeding \$100.00 or imprisonment for a term not exceeding 30 days, or by both such fine and imprisonment.
- (b) Violations of this Code shall constitute either a misdemeanor or, at the election of the town, shall subject the offender to a civil penalty upon the issuance of a citation for the violation as provided in this section. The civil penalty, if not paid to the town within 15 days of the issuance of a citation, may be recovered by the town in a civil action in the nature of debt. Unless otherwise provided by a specific provision of this Code, such civil penalties shall be in the amount of \$100.00 for each violation; and each day any single violation continues shall be a separate offense.
- (c) In addition to the civil penalties set out in subsection (b) of this section, 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 state 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) In addition to the civil penalties set out in subsection (b) of this section, any provision of this Code or any other town ordinances that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by the state general court of justice. 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 or order of abatement commanding the defendant to correct the unlawful condition 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. 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; that abandoned or junked vehicles be removed; 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 material man'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 an abatement shall not suspend or cancel an injunction issued in conjunction with such order.

- (e) The provisions of this Code and any other town ordinances may be enforced by one, all or a combination of the remedies authorized and prescribed by this section.
- (f) Upon determination of a violation of any section of this Code, the penalty for which is a civil penalty, the town shall cause a warning citation to be issued to the violator. Such citation shall set out the nature of the violation, the section violated and the date of the violation, and shall contain an order to immediately cease the violation. If the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time must be stated in which the violation must be abated. The warning citation shall specify that a second citation shall incur a civil penalty.
- (g) Upon failure of the violator to obey the warning citation, a civil citation shall be issued by the town manager and served either directly on the violator, his duly designated agent or the registered agent if a corporation, either 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 town or obtained by the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of the citation. The citation shall direct the violator to pay the citation within 15 days of the date of 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.
- (h) If the violator fails to respond to a citation within 15 days of its issuance, and pay the penalty prescribed in the citation, the town may institute a civil action in the nature of debt in the appropriate division of the state general court of justice for the collection of the penalty, costs and attorney's fees and such other relief as permitted by law.

(Prior Code, ch. XV, § 1)

State law reference(s)—Authority of town to impose penalty, G.S. 160A-175; violation of town ordinances, G.S. 14-4.