

## Chapter 10. General Provisions

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### **§ 10.01 TITLE OF CODE.**

This codification of ordinances by and for the municipality of Matthews shall be designated as the Code of Matthews, 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 peculiar and appropriate meaning in law shall be understood according to their technical import.

- (B) For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

**COUNTY.** Mecklenburg County, North Carolina.

**MAY.** The act referred to is permissive.

**MONTH.** A calendar month.

**OATH.** 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**.

**OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT.** An officer, office, employee, commission, or department of this town unless the context clearly requires otherwise.

**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.

**PRECEDING or FOLLOWING.** Next before or next after, respectively.

**SHALL.** The act referred to is mandatory.

**SIGNATURE or SUBSCRIPTION.** Includes a mark when the person cannot write.

**STATE.** The State of North Carolina.

**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.

**TOWN, MUNICIPAL CORPORATION, OR, MUNICIPALITY.** The Town of Matthews, North Carolina.

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

**YEAR.** A calendar year, unless otherwise expressed; equivalent to the words **YEAR OF OUR LORD**.

**Statutory reference:**

*Similar statutory definitions, see G.S. § 10-3*

**§ 10.06 RULES OF INTERPRETATION.**

The construction of all ordinances of this city shall be by the following rules, unless such construction is plainly repugnant to the intent of the Board of Commissioners or of the context of the same ordinance:

- (A) **AND or OR.** Either conjunction shall include the other as if written “and/or,” if the sense requires it.
- (B) **Acts by assistants.** When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.
- (C) **Gender; singular and plural; tenses.** Words denoting the masculine gender shall be deemed to include the 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 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.

**§ 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, such 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 such intent, such spelling shall be corrected and such 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 such error.

**§ 10.11 OFFICIAL TIME.**

The official time, as established by applicable state/federal laws, shall be the official time within this town for the transaction of all town business.

**§ 10.12 REASONABLE 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 such act or the giving of such notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

**§ 10.13 ORDINANCES REPEALED.**

(A) 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.

(B) No resolution of the Board of Commissioners not specifically mentioned herein is hereby repealed. ('72 Code, § 1-2)

(C) The repeal provided for in division (A) of this section shall not 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; nor shall a repeal affect any ordinance or resolution 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 or obligation assumed by the town; nor shall a repeal affect the administrative ordinances or resolutions of the Board of Commissioners not in conflict or inconsistent with the provisions of this code; nor shall a repeal affect any right of franchise granted by any ordinance or resolution of the Board of Commissioners to any person, firm or corporation; nor shall a repeal affect any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating and the like, any street or public way in the town; nor shall a repeal affect any ordinance levying or imposing taxes not included herein; nor shall a repeal affect any ordinance establishing and prescribing the street grades of any street in the town; nor shall a repeal affect any ordinance providing for local improvements and assessments therefor; nor shall a repeal affect any ordinance dedicating or accepting any plat or subdivision of land either within or without the town; nor shall a repeal affect any ordinance extending the boundaries of the town; nor shall a repeal be construed as repealing any sewer and water policy of the town or the provision for payment to the town for services rendered by the town or at its direction, regardless of the nature of those services; nor shall a repeal affect any ordinance, resolution, pact or other agreement establishing membership or participation of the town or any of its officials in any council of local government or any similarly constituted cooperative bodies or agencies; nor shall a repeal be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this code. ('72 Code, § 1-3)

#### **§ 10.14 ORDINANCES UNAFFECTED.**

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.

#### **§ 10.15 EFFECTIVE DATE OF ORDINANCES.**

All ordinances passed by the Board of Commissioners 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 ORDINANCE.**

(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 OR SUPPLEMENT CODE.**

(A) Any and all additions or amendments to this code when passed in such form as to indicate the intention of the Board of Commissioners to make the same a part thereof shall be deemed to be incorporated in this code so that reference to “The Code of the Town of Matthews” shall be understood and intended to include those additions and amendments. ('72 Code, § 1-4)

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of such chapter or section. In addition to such indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

(C) In case of the amendment of any section of this code for which a penalty is not provided, the general penalty as provided in § 10.99 shall apply to the section as amended; or in case an amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in that other section shall be held to relate to the section so amended, unless that penalty is specifically repealed therein. ('72 Code, § 1-6)

**§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.**

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (G.S. § 160A-69) (Ord. 10, passed 1-17-80; Am. Ord. 20, passed 1-1-85).

(2) If a G.S. cite is set forth as a “statutory reference” following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

**§ 31.10 MAYOR.**

The Mayor shall preside at all meetings of the Board of Commissioners.

(Ord. 10, passed 1-1-80)

*Statutory reference: For the powers and duties of the Mayor, see G.S. § 160A-67*

**§ 10.19 COPY OF CODE TO BE KEPT ON FILE.**

(A) A copy of this code shall be kept on file in the office of the Town Clerk, preserved in loose-leaf form, or in any other form as the Town Clerk may consider most expedient. It shall be the express duty of the Town Clerk, or someone authorized by the Clerk, to insert in their designated places all amendments or ordinances which indicate the intention of the Board of Commissioners to make the same a part of this code when the same have been printed or reprinted in page form, and to extract from this code all provisions which may be from time to time repealed by the Board of Commissioners. This copy of such code shall be available for all persons desiring to examine the same and shall be considered the official code of the town. ('72 Code, § 1-5)

(B) The code of ordinances described herein shall be published in printed form for distribution. A copy thereof is available for public inspection at the office of the Town Clerk. ('72 Code, § 1-9)

**§ 10.20 ALTERING OR TAMPERING WITH CODE PROHIBITED.**

It shall be unlawful for any person, firm or corporation in the town to change or amend by additions or deletions, any part or portion of this code, or to insert or delete pages or portions thereof, or to alter or tamper with this code in any manner whatsoever which will cause the law of the town to be misrepresented thereby.

('72 Code, § 1-7) Penalty, see § 10.99

**§ 10.99 GENERAL PENALTY.**

(A) Any person violating or failing, refusing and neglecting to comply with any provision or requirement of any section or subsection of this code, or any ordinance of this town now in force or hereinafter enacted, to which no specific penalty is fixed, shall be punished by a fine not to exceed \$500 or imprisonment for not more than 30 days, for each and every offense; but the judgment for any penalty may be reduced or wholly or partly remitted within the discretion of the court.

(B) Each day that any breach or violation of, or any failure to comply with, any provision or requirement of any section or division of this code or any ordinance of this town, now in force or hereinafter enacted, continues, or is allowed to continue, shall constitute, and is hereby declared to be, a separate and distinct offense. ('72 Code, § 2-4)