

CHAPTER 10: GENERAL PROVISIONS

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§ 10.01 TITLE OF CODE.

This codification of ordinances by Haywood County is designated the “Code of Haywood County” and may be so cited.

Statutory reference:

For provisions authorizing county to adopt and issue a code of ordinances, see G.S. § 153A-49 (Ord. passed 1-17-1980; Am. Ord. passed 7-18-2022)

§ 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, General Provisions, compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

(Ord. passed 1-17-1980; Am. Ord. passed 7-18-2022)

§ 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.

BOARD OF COUNTY COMMISSIONERS, BOARD OF COMMISSIONERS, or BOARD. The Board of Commissioners of Haywood County, North Carolina.

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

COUNTY. Haywood County, North Carolina.

G.S. or Gen. Stat. The General Statutes of North Carolina, as amended.

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. 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 county unless the context clearly requires otherwise.

PERSON. Extends to and includes any entity having separate legal status, such as, without limitation, a person, persons, firm, corporation, limited liability company, partnership, 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 or similar entities, 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 and an electronically affixed “signature.”

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.

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**.

(Ord. passed 1-17-1980; Am. Ord. passed 7-18-2022)

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this county shall be by the following rules, unless such construction is plainly repugnant to the intent of the Board of County 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 may do as the principal, the requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(C) *Gender; singular and plural; tenses.* Words denoting gender shall be interchangeable and inclusive; words in the singular shall include the plural and vice versa; the use of a verb in the present tense shall include the future, if applicable.

(D) *General term.* A general term following a specific enumeration of terms is not limited to the class enumerated unless expressly so limited.
(Ord. passed 1-17-1980; Am. Ord. passed 7-18-2022)

§ 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, 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.

§ 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 county 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 established by applicable state and federal law shall be the official time within this county for the transaction of all county business.
(Ord. passed 1-17-1980; Am. Ord. passed 7-18-2022)

§ 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 the act or the giving of the 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 or a legal holiday, it shall be excluded from the calculation.
(Ord. passed 1-17-1980; Am. Ord. passed 7-18-2022)

§ 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.

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 County 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 by itself be 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) If the County Board of Commissioners shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(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 the chapter or section. In addition to the 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.

§ 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. passed 5-13-60; Am. Ord. passed 1-1-70; Am. Ord. passed 1-1-80; Am. Ord. passed 1-1-85)

(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. § 139.1 et seq.) (Ord. passed 1-17-80; Am. Ord. passed 1-1-85).

(2) A statutory cite set forth as a "statutory 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.

The county shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

For provisions concerning the inspection of public records, see G.S. §§ 139-1 et seq.

§ 10.19 CERTAIN ORDINANCES AND RESOLUTIONS NOT AFFECTED BY CODE.

(A) 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 ordinances or resolutions, which are not included herein:

(1) Any ordinance or resolution promising or guaranteeing 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;

(2) Any appropriation ordinance or resolution or ordinance or resolution providing for the levy of taxes or for an annual budget, or prescribing salaries for county officers and employees;

(3) Any ordinance or resolution granting any franchise, permit, or other right;

(4) Any ordinance or resolution approving, authorizing, or otherwise relating to any contract, agreement, lease, deed, or other instrument;

(5) Any ordinance or resolution authorizing or otherwise relating to any public improvement project or work;

(6) Any ordinance or resolution zoning or rezoning specific property or amending the zoning map;

(7) Any temporary or special ordinance or resolution or ordinance or resolution of limited interest or transitory nature;

(B) And all such ordinances and resolutions are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

Statutory reference:

Authority to omit ordinances of the types enumerated above from the code, see G.S. § 153A-49

§ 10.20 SUPPLEMENTATION OF CODE.

(A) By contract or by county personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the Board of County Commissioners. A supplement to the code shall include all substantive permanent and general parts of ordinances passed by the Board of County 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 [i.e., American Legal Publishing Corporation]) 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 of 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 subchapter," "this division," and the like, as the case may be, or to "sections ____ through ____" (inserting section numbers to indicate the sections of the code which embody the substantive sections of the ordinance incorporated into the code); and

(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.

Statutory reference:

Authority to maintain code by replacement pages, see G.S. § 153A-49

(Ord. passed 1-17-1980; Am. Ord. passed 7-18-2022)

§ 10.99 GENERAL PENALTY.

(A) Whenever an act or condition is made a criminal violation in these ordinances, the criminal statute (generally, N.C.G.S. § 14-4) will be recited in that Chapter or Section. Each day any violation of this code or any ordinance shall continue shall constitute a separate offense, unless otherwise specified.

(B) In addition to the provisions of division (A) of this section, any provision of this code or other ordinance of the county may be enforced by any one or more of the remedies authorized by G.S. § 153A-123.

§ 10.100 EFFECTIVE DATE AND REVISION OF ORIGINAL ORDINANCE

This revised ordinance revises and supplants the ordinance in Chapter 10 originally adopted January 17, 1980, and all subsequent amendments, and shall be effective on and after July 18, 2022.

Statutory reference:

For provisions authorizing county to punish ordinance violations as misdemeanors, see G.S. § 14-4(a)

For provisions concerning county enforcement of ordinances, see G.S. § 153A-123