

**TOWN OF MOUNT PLEASANT
CODE OF ORDINANCES**

PART 1: INTRODUCTION
(as amended December, 9, 2019)

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CHAPTER 1: USE OF THE CODE AND PENALTIES

Section 1-1.1 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 Board or the context clearly requires otherwise.

Board. The words “the Board” shall mean the Mayor and Commissioners of the Town of Mount Pleasant.

Clerk. The words “the Clerk” shall mean the Town Clerk of the Town of Mount Pleasant.

Code Enforcement Officer. The person or persons designated by the Town Manager to enforce the provisions of this Code.

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

County. The word “county” shall mean the County of Cabarrus in the State of North Carolina, except as otherwise provided.

Gender. Words importing the masculine gender shall include feminine and neuter genders.

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

Mayor. The words “the Mayor” shall mean the Mayor of the Town of Mount Pleasant.

Month. The word “month” shall mean a calendar month.

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

Oath. The word “oath” shall be constructed to include 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”.

Officers, departments and agencies. The title of an officer, department or agency shall be deemed to be preceded by the word “Town” or followed by the words “of the Town” unless the context indicates to the contrary.

Owner. The word “owner”, applied to a 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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Personal property. The words “personal property” shall include every species of property except real property as herein defined.

Preceding, following. The words “preceding” and “following” shall mean next before and next after respectively.

Property. The word “property” shall include real and personal property.

Real property. The term “real property” shall include lands, tenements and hereditaments.

Sidewalk. The word “sidewalk” shall mean any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

State. The word “State” shall be construed to mean the State of North Carolina, except as otherwise provided.

Street. The word “street” shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, or bridge and the approaches thereto within the Town.

Tenant, occupant. The words “tenant” and “occupant” applied to a building or land shall include any person who occupies the whole or a part of such building or land whether alone or with others.

Time. Words used in the past or present these include the future as well as the past and present.

Town. The word “the Town” shall mean the Town of Mount Pleasant, in Cabarrus County, North Carolina, except as otherwise provided.

Writing. The words “writing” and “written” shall include printing and any other mode of representing words and letters.

Year. The word “year” shall mean a calendar year.

Section 1-1.2 Provisions considered as continuations 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.

Section 1-1.3 Section designations

The heading of the several sections of this Code printed in bold-face type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

Section 1-1.4 Effect of repeal or expiration of ordinances

The repeal of an ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued, any offence committed, any penalty or punishment incurred or any proceeding commenced before the repeal took effect or the ordinance expired. When an ordinance which repealed

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another shall itself be repealed, the previous ordinance shall not be revised with express words to that effect.

Section 1-1.5 General Penalty

- A. Violations of this Code shall subject the offender to a civil penalty upon the issuance of a citation for said violation as hereinafter provided. Unless otherwise provided by a specific provision of this Code, said civil penalties shall be in the amount of \$100.00 for each violation and each day any single violation continues or as specified in the current fees, rates and charges schedule adopted as part of the Town of Mount Pleasant Fee Schedule; except, that where the General Statutes of North Carolina provide specific remedies for violations of provisions of this Code adopted pursuant to such statutes, such remedies available to the Town for enforcement of this Code shall be in addition to the remedies hereinafter stated. No violation of this Code shall constitute a criminal offense under North Carolina General Statute 14-4 unless the violation is a criminal offense by virtue of another state statute.
- B. The civil penalty, if not paid to the Town within fifteen (15) days of the issuance of a citation, may be recovered by the Town in a civil action in the nature of debt.
- C. In addition to any civil penalties set out in 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 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 any civil penalties set out in this section, any provision of this Code or any other Town ordinance that makes unlawful a condition existing upon or a use made of real property may be enforced by injunction and order of abatement, and the general court of justice shall have jurisdiction to issue such orders. 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 and/or order of abatement commanding the defendant to correct the unlawful condition upon 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.
- E. In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that:
 - 1. Buildings or other structures on the property be closed, demolished or removed;
 - 2. Fixtures, furniture or other movable property be removed from building on the property;
 - 3. That abandoned, nuisance, or junked vehicles be removed;
 - 4. Grass and weeds be cut;
 - 5. Improvements or repairs be made; or
 - 6. Any other action be taken that is necessary to bring the property into compliance with this Code or such other 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 or she 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

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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 abatement shall not suspend or cancel an injunction issued in conjunction therewith.

- F. 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.
- G. Except as otherwise specifically provided, each day's continuing violation of any provision of this Code or any other Town ordinance shall be a separate and distinct offence.
- H. Upon determination of a violation of any section of this Code, the Town may but is not required to cause a warning citation to be issued to a violator. Such warning citation shall set out the nature of the violation, the section violated, and the date of the violation, and shall contain any 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 may specify that a second citation shall incur a civil penalty, together with costs, attorney, and administrative fees. Any appeal from a warning citation shall be taken within ten (10) business days from the date of said warning citation to the Enforcement Officer. Where the official determines that the period of time stated in the original warning citation is not sufficient for abatement based upon a schedule agreed upon with the violator for abatement, the official may amend the warning citation to provide for additional time.
- I. Except where a section of this Code provides for abatement of public health or safety nuisances in accordance with the General Statutes and upon failure of the violator to obey a warning citation, if applicable, a civil citation shall be issued by the appropriate official of the Town and either served directly on the violator, his duly designated agent, or a registered agent if a corporation, either in person or posted in the United States mail served by first class mail addressed to the last known address of the violator as contained in the records of the Town or as obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of such citation. If the citation cannot be reasonably served in person or by first class mail, or if such mail is returned, then the notice of citation shall be posted on the offending property for a minimum of ten (10) days. The citation shall direct the violator to appear before the Enforcement Officer within fifteen (15) days of the date of the citation, or alternatively to pay 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. However, the issuance of a single citation may provide for daily accrual of civil penalties until such time as the violation is determined by the Enforcement Officer to be corrected.
- J. If the violation is due to use or parking of a vehicle, the citation may be served by posting it on the windshield of the vehicle by a Cabarrus County Sheriff's Deputy or the Enforcement Officer.
- K. In the violator fails to respond to a citation within fifteen (15) days of its issuance and pay the penalty prescribed therein, the Town may institute a civil action in the nature of debt in the appropriate

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division of the state general court of justice for the collection of the penalty, costs, attorney fees, and such other relief as permitted by law.

State law references: N.C.G.S. 160A-175; N.C.G.S. 14-4.

Section 1-1.6 Severability

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

Section 1-1.7 Amendments to Code

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 readopted as a new Code by the Town Board of Commissioners.

Section 1-1.8 Supplementation of Code

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

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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 meanings 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.

Section 1-1.9 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 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, etc., 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 for such improvements;
10. Any zoning ordinance, subdivision ordinance, or other development ordinance;
11. Any ordinance describing or altering the boundaries of the Town;
12. The administrative ordinances or resolutions of the Town not in conflict or inconsistent with the provisions of this Code;
13. Any ordinance levying or imposing taxes not included herein;
14. Any personnel ordinance;

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15. Nor shall such 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 such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this section.

State Law reference: N.C.G.S. 164-7

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