

Part II  
**The Code**

Chapter 1

**GENERAL PROVISIONS**

- § 1-1. How Code designated and cited.
- § 1-2. Rules of construction.
- § 1-3. Conflicts within Code.
- § 1-4. Catchlines.
- § 1-5. Severability of parts of Code.
- § 1-6. Repeal, expiration and revival of ordinances.
- § 1-7. Amendments to Code; effect of new ordinances; amendatory language.
- § 1-8. General penalty; enforcement of ordinances; continuing violations.
- § 1-9. Filing of technical codes.

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

The provisions in the following chapters and sections shall constitute and be designated, “The Code of the City of Mount Holly” and may be so cited. Such Code may also be cited as “Mount Holly City Code”. (Code 1961, § 1-1.)

For state law requiring code, see G.S. § 160A-77. As to maintenance of ordinance book, see G.S. § 160A-78. As to pleading and proving code and other city ordinances, see G.S. § 160A-79.

Sec. 1-2. 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 city council or the context clearly requires otherwise:

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

City. The words “city”, “the city”, or “this city” shall mean the City of Mount Holly, North Carolina.

City limits; corporate limits. The words “city limits” or “corporate limits” shall mean the legal boundary of the City of Mount Holly, North Carolina.

Council. The words “council” or “the council” shall mean the city council of the City of Mount Holly, North Carolina, or the governing body thereof.

City manager. The words “city manager” shall mean the city manager of the City of Mount Holly, North Carolina.

Code. The word “Code” shall mean the Code of Mount Holly, unless otherwise explained in the text.

Computation 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 be Saturday, Sunday or a legal Holiday, that shall be excluded.

For state law as to computation of time, see G.S. § 1-593.

County. The words “county” or “this county” shall mean the County of Gaston.

Delegation of authority. Whenever a provision appears requiring the head of a department of the city to do some act or make certain inspections, it is to be construed to authorize subordinates to perform the required inspection unless the terms of the provision or section designate otherwise.

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

Interpretation. In the interpretation and application of any provision of this Code, it shall be held to the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

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.

Keeper; proprietor. The words “keeper” and “proprietor” shall mean and include person, firm, association, corporation, club and partnership, whether acting by themselves or a servant, agent or employee.

Mayor. The words “the mayor” or “mayor” shall mean the mayor of the City of Mount Holly, North Carolina.

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

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of language, but 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 such meaning.

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

Oath. The word “oath” shall be construed 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 “affirm” and “affirmed” shall be equivalent to the words “swear” and “sworn”.

Officer. The word “officer” shall mean the officer whose duties are being prescribed or regulated in the section or chapter.

Or; and. “Or” may be read “and” and “and” may be read “or” if the sense requires it.

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, or the holder of the title in fee simple of record of the whole. or 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.

Personal property includes 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 shall include lands, tenements and hereditaments.

Residence. The term “residence” shall be construed to mean the place adopted by a person as his place of habitation and to which, whenever he is absent, he has the intention of returning. When a person eats at one place and sleeps at another, the place where such person sleeps shall be deemed his residence.

Right of way. The term “right of way” shall mean the privilege of the immediate use of the roadway and shall include the use of the entire width of the land between the property lines so dedicated to public use.

Seal. Seal shall mean the city seal, corporate seal, seal of the city corporation or seal of the City of Mount Holly, North Carolina.

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.

Signature or subscription. The words “signature” or “subscription” include a mark when the person cannot write.

State. The words “state”, “the state” or “this state” shall be construed to mean the State of North Carolina.

Street. The word “street” shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, path, viaduct, bridge or other public place and the approaches thereto within the city when any part thereof is open to the use of the public and established for purposes of vehicular traffic.

Tenant; occupant. The word “tenant” or “occupant” applied to a building or land shall include any person who occupies the whole or part of such 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.

Title of office. The title of any office shall be construed to include the words “of the City of Mount Holly, North Carolina”.

Vehicle. Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks is a vehicle.

Writing; written. 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. (Code 1961, § 1-2.)

For state law containing similar rules of construction, see G.S. § 12-3.

### Sec. 1-3. Conflicts within Code.

All sections of this Code shall be construed together, and if there be any apparent conflict between sections, the same shall be interpreted by the attorney and his construction shall be binding upon the council. (Code 1961, § 1-3.)

### Sec. 1-4. 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 of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. (Code 1961, § 1-4.)

Sec. 1-5. Severability of parts of Code.

It is hereby declared to be the intention of the city council that the section, 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 by the valid judgment or decree of any court of competent jurisdiction such unconstitutionality 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 city council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section. (Code 1961, § 1-5).

Sec. 1-6. Repeal, expiration and revival of ordinances.

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 an ordinance which repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect. (Code 1961, § 1-6.)

As to form and effective date of ordinances, see 2-2, 2-3 of this Code.

Sec. 1-7. Amendments to code; effect of new ordinances; amendatory language.

All ordinances passed subsequent to this Code, which amend, repeal or in any way affect this Code, shall be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. 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.

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 the City of Mount Holly, North Carolina, is hereby amended to read as follows... “The new provisions shall then be set out in full as desired.

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 the City of Mount Holly, 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. 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. (Code 1961, § 1-7.)

As to form and effective date of ordinances generally, see §§ 2-2, 2-3 of this Code.

Sec. 1-8. General penalty; enforcement of ordinances; continuing violations.

- (a) Unless otherwise specifically provided, violation of any provision of this Code or any other city ordinances shall be a misdemeanor, as provided by section 14-4 of the General Statutes of North Carolina.
- (b) An ordinance may provide that violation thereof shall subject the offender to a civil penalty to be recovered by the city in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance.
- (c) The provisions of this Code and any other city ordinance may be enforced by any one, all or a combination of the remedies authorized and prescribed by this section and state law.
- (d) Except as otherwise specifically provided, each day's continuing violation of any provision of this Code or other city ordinance shall be a separate and distinct offense. (Code 1961, § 1-8.)

For state law as to penalties and remedies available for violation of ordinances, see G.S. § 160A-175. As to penalty for violation of city ordinances, see G.S. § 14-4.

As to form and effective date of ordinances generally, see §§ 2-2, 2-3 of this Code. As to penalties for violations of restrictions imposed during proclaimed emergencies, see § 6-8. As to penalties for failure to keep premises clean, etc., see § 8-9. As to penalties for violation of housing regulations, see § 9-20.

Sec. 1-9. Filing of technical codes.

At least one copy of any technical code adopted in this Code by reference shall be kept on file for public inspection in the office of the city manager.

For state law as to adoption of technical codes by reference, see G.S., § 160A-76.

As to adoption of Building Code, see § 4-1 of this Code. As to adoption of Electrical Code, see § 4-2. As to adoption of Heating Code, see § 4-2. As to adoption of Plumbing Code, see § 4-2.