

**TITLE I: GENERAL PROVISIONS**

Chapter

**1.01. GENERAL PROVISIONS**



**CHAPTER 1.01: GENERAL PROVISIONS**

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**§ 1.01.001 TITLE OF CODE.**

This codification of ordinances by and for the Town of River Bend shall be designated as the *Code of Ordinances, Town of River Bend, North Carolina* or more simply the *River Bend Town Code* or the *Code* and may be so cited.

**§ 1.01.002 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.

**§ 1.01.003 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.

**§ 1.01.004 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.

**§ 1.01.005 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.

**CHARTER.** The Charter of the Town of River Bend, North Carolina.

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

**COMPUTATION OF TIME.**

(a) The time within which an act is to be done shall be computed by excluding the first day and including the last day. If the last day is Saturday, Sunday, or a legal state or federal holiday, that day shall be excluded.

(b) Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him, and the notice or paper is served by mail, 3 days shall be added to the prescribed period.  
(Prior Code, Ch. 1, § 2)

**COUNCIL** or **TOWN COUNCIL**. The governing body of the Town of River Bend, North Carolina.

**COUNTY**. Craven County, North Carolina.

**GENDER**. Words importing the masculine gender shall include the feminine and neuter.  
(Prior Code, Ch. 1, § 2)

**GOVERNOR**. The Governor of North Carolina.

**JOINT AUTHORITY**. All words giving a joint authority to 3 or more persons or Zoning Administrator shall be construed as giving the authority to a majority of persons or officers unless it shall be otherwise expressly declared in the law granting the authority.  
(Prior Code, Ch. 1, § 2)

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

**MONTH**. A calendar month.

**NUMBER**. Words used in the singular include the plural and the plural includes the singular number.  
(Prior Code, Ch. 1, § 2)

**OATH**. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in these 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 municipality unless the context clearly requires otherwise.

**OFFICIAL TIME STANDARD**. Wherever 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.  
(Prior Code, Ch. 1, § 2)

**OWNER**. Applied to any property, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of the property.

**PERSON**. The word **PERSON** shall extend and be applied to any individual, business entity, organization (whether incorporated or unincorporated), corporation, trust, limited liability company, partnership, limited partnership, trustee, receiver, unit of government, or any other group or groups acting as unit.

**PERSONAL PROPERTY**. Every species of property except real property.

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

**PROPERTY**. Includes real and personal property.

**REAL PROPERTY**. Includes lands, tenements and hereditaments.

**SHALL** or **MAY**. The word **SHALL** is mandatory. The word **MAY** is permissive.

**SIDEWALK.** Any portion of a street between the curblineline and the adjacent property line intended for the use of pedestrians.

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

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

**STREET.** Any public way, road, highway, street, avenue, boulevard, parkway, dedicated alley, lane, viaduct, bridge and the approaches thereto within the town and shall mean the entire width of the right-of-way between abutting property lines.

**SUBCHAPTER.**

(a) 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.

(b) Not all chapters have subchapters.

**TENANT or OCCUPANT.** When applied to a building or land, shall include any person who occupies the whole or a part of the building or land, whether alone or with others.

**TOWN.** The Town of River Bend in Craven County, North Carolina, except as otherwise provided.

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

**YEAR.** A calendar year. **FISCAL YEAR** shall refer to the period from July 1 to June 30. (Prior Code, Ch. 1, § 2)

**ZONING ADMINISTRATOR.** The official charged with the administration of the Zoning Chapter.

**§ 1.01.006 RULES OF INTERPRETATION.**

The construction of all ordinances of this town shall be by the following rules, unless the construction is plainly repugnant to the intent of the legislative body 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 well 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 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.

#### **§ 1.01.007 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.

#### **§ 1.01.008 REFERENCE TO OTHER SECTIONS.**

Whenever in 1 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.

#### **§ 1.01.009 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.

#### **§ 1.01.010 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 the intent, the spelling shall be corrected and the 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 the error.

#### **§ 1.01.011 OFFICIAL TIME.**

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

#### **§ 1.01.012 MATTERS INCLUDED AND EXCLUDED FROM CODE.**

(A) Except as provided below, this code includes all ordinances intended to be continuing or permanent and excludes:

- (1) All ordinances relating to boundaries, zones or locations that must be shown on a map;
- (2) Actual boundaries, zones, or locations that must be shown on a map; and
- (3) Those ordinances intended to have only a temporary effect or that must be adopted on an annual basis.

(B) Without limiting the foregoing, the code specifically excludes the following:

- (1) The annual budget ordinance and any amendment thereto;
  - (2) Any ordinance making an assessment;
  - (3) Any ordinance opening, relocating, closing, altering or naming any street or alley;
  - (4) Any ordinance relating to zoning map changes;
  - (5) Any ordinance relating to the corporate limits;
  - (6) Any ordinance relating to the qualifications, classification, salaries, compensation or bonds on town officers or employees or members of Boards or Commissions;
  - (7) Any franchise ordinance; and
  - (8) Any ordinance authorizing the issuance of bonds.
- (Prior Code, Ch. 1, § 3)

#### **§ 1.01.013 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.

(B) All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

#### **§ 1.01.014 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.

#### **§ 1.01.015 ADOPTION AND PASSAGE OF ORDINANCES.**

(A) Subject to the provisions of G.S. § 160A-75, all proposed ordinances or changes to the town code or ordinances, with the exception of budget amendments, shall stand over for 1 meeting before being voted on. In the event a situation calling for immediate action or attention occurs, an exception may be made which shall require the affirmative vote of 2/3 of the Council members present.

(B) An affirmative vote equal to a majority of all the members of the Council present and not excused from voting on the question in issue shall be required to adopt an ordinance or take any action having the effect of any ordinance.

(C) Subject to the provisions of G.S. § 160A-76, no ordinance making a grant, renewal or extension, whatever its kind or nature, of any franchise or special privilege shall be passed until voted on at 2 consecutive regular meetings of the Council, and no grant, renewal or extension shall be made otherwise than by ordinance.  
(Prior Code, Ch. 2, Art. I, § 7)

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

All ordinances shall be effective after ratification by the required vote of the Council, except ordinances specifying some other effective date or ordinances required by state law to be effective only after having met specific date requirements.  
(Prior Code, Ch. 2, Art. I, § 10)

#### **§ 1.01.017 REPEAL OR AMENDMENT OF ORDINANCES.**

(A) *Generally.* No ordinance or part thereof shall be amended or repealed except by an ordinance adopted in accordance with the provisions of § 1.01.015

(B) *Initiative and referendum petitions: form and procedure.*

(1) Initiative and referendum petitions shall be governed by the rules regarding form and sufficiency set out in this section, as well as by other rules regarding form and sufficiency as the Town Council may impose by ordinance consistent with the provisions and with the spirit and purpose of its Charter.

(2) The form and content of initiative and referendum petition shall be as described in divisions (a) through (d) below; and only petitions and petition papers which reasonably comply with these requirements shall be accepted by the Town Clerk without delay upon presentation, and the acceptance by the Town Clerk shall constitute the filing of the petition. Any petitions or petition papers not in compliance with this division (B) shall be rejected by the Town Clerk until they are brought into reasonable compliance. In order to be valid, a petition must be presented to the Town Clerk no more than 180 days from the date on which the proceedings were commenced by the filing of the petition committee affidavit.

(a) The signatures to a petition shall be executed in ink or indelible pencil and need not all be affixed to 1 paper, but all papers of a petition shall be of uniform size and style and shall be assembled as 1 instrument for filing with the Town Clerk. Each signature shall reflect that date on which it was signed and be followed by the address of the signer.

(b) The petition must also indicate the names and addresses of the 5 or more registered voters who constitute the petitioners' committee, and the designated address to which all notices for the petitioners' committee shall be sent.

(c) An affidavit must be attached to each petition and petition paper at the time of filing; and the circulator of the petition paper must swear to the following before the Town Clerk or any other official authorized to administer the oath:

1. He personally circulated the petition;
2. Each signature on the paper was affixed in his presence; and
3. He believes that each signature to be the genuine signature of the person whose name it purports to be; and
4. If it is an initiative petition, that the full text of the proposed ordinance was attached to or contained in the accompanying paper throughout its circulation, and that each signer of the petition paper had the opportunity to read the full text of the ordinance before signing the petition; and
5. If a referendum petition, that each signer of the petition had read the designation and description of the ordinance concerned.

(d) All initiative petition papers shall contain the full text of the proposed ordinance.

(3) The petition committee shall submit a copy of its proposed initiative petition, including the full text of the proposed ordinance, to the Town Clerk upon commencement of the initiative process.

*(C) Procedures for certification of sufficiency of the petition.*

(1) Petitions which comply with the requirements of division (B) above shall be accepted by the Town Clerk upon presentation unless:

- (a) The petition is signed by less than 15% of the registered voters of the Town of River Bend;
- (b) Proposes or requests repeal of an ordinance which is not subject to this section; or
- (c) If a referendum petition, is not filed within the 30 days time period.

(2) Upon determination that the petition meets the requirements of division (B) above and is not barred by any exception cited in division (C)(1), the Town Clerk shall deliver the petition to the Craven County Board of Elections within 10 days after presentation.

(3) The Craven County Board of Elections shall verify the signatures on the petition against the registration books within 15 days of receipt of the petition; except that the Craven County Board of Elections shall not be obligated to conduct a registration check within 15 days during any 30 day period immediately preceding or in any 10 day period immediately following a countywide or citywide election.

(4) Upon verifications of the signatures, the Craven County Board of Elections shall certify to the Town Clerk:

- (a) The total number of registered voters of the Town of River Bend at the time of the most recent election; and
- (b) The number of voters registered in the Town of River Bend whose signatures appear on the petition.

(5) Within 5 days after the return of the petition from the Craven Board of Elections, the Town Clerk shall complete a certificate as to whether the petition is sufficient. If the Clerk certifies a petition insufficient, his certificate shall show the particular area wherein the petition is defective. As soon as he has completed his certificate, the Town Clerk shall notify the petitioners' committee of the contents of the certificate. If a petition is certified sufficient, the Town Clerk shall present his certificate to the Town Council at the next regularly scheduled meeting and that certificate shall be final determination as to the sufficiency of the petition.

(6) In the event that a petition is deemed insufficient, the petitioners' committee shall be afforded the opportunity to amend or supplement the petition within 10 days of notification that the petition has not been certified sufficient. Any supplementary petition shall be governed by the same form and content requirements as an original petition.

(7) If the petitioners' committee decides not to amend or supplement an insufficient petition, then the Town Clerk shall present the certificate of insufficiency to the Town Council at its next regular meeting and that certificate shall be a final determination as to the sufficiency of the petition subject to judicial review. The petitioners' committee may seek judicial determination as to the sufficiency of the petition, but no further action will be taken on an insufficient petition unless the reviewing court directs otherwise.  
(Prior Code, Ch. 2, Art. I, § 8)

#### **§ 1.01.018 ORDINANCES TO BE IN WRITING.**

All ordinances submitted to the Council for consideration shall be in writing.  
(Prior Code, Ch. 2, Art. I, § 9)

#### **§ 1.01.019 ORDINANCES TO BE CONFINED TO 1 SUBJECT.**

All ordinances shall be confined to 1 subject, except ordinances for appropriations, which shall be confined to the subject of appropriations, and substance of each ordinance shall be clearly expressed in the title.  
(Prior Code, Ch. 2, Art. I, § 11)

#### **§ 1.01.020 OFFICIAL COPY OF ORDINANCES.**

A true copy of any ordinance which has been duly enacted by the Council, signed by the Mayor and attested to by the Town Clerk shall be known as the official copy of any ordinance for the town.  
(Prior Code, Ch. 2, Art. I, § 12)

#### **§ 1.01.021 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

(A) (1) 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, the repealed portions may be excluded from this code by omission from reprinted pages.

(2) The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence that the subsequent ordinances numbered or omitted are readopted as a new code by the town.

(B) (1) Amendments to any of the provisions of the code shall be made by amending the provisions by specific reference to the section number of this code in language substantially similar to the following: “Section \_\_\_\_\_ of the Code of Ordinances, Town of River Bend, North Carolina, is hereby amended as follows....”

(2) The new provisions shall then be set out in full as desired.

(C) (1) If a new section not heretofore existing in the code is to be added, language substantially similar to the following shall be used: “The Code of Ordinances, Town of River Bend, North Carolina, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which section shall read as follows:....”

(2) 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.

#### **§ 1.01.022 SECTION HISTORIES; STATUTORY REFERENCES.**

(A) If a section of this code is derived from the previous code of ordinances of the town published and subsequently amended, the prior code section number shall be indicated in the history by “(Prior Code, § \_\_\_\_).”

(B) 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.**

This municipality 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. §§ 132-1 et seq.*

#### **§ 1.01.023 NEW PROVISIONS CONSIDERED CONTINUATION OF SIMILAR EXISTING PROVISIONS.**

Whenever this code is amended by adopting new provisions, insofar as these new provisions are the same in substance as the previously adopted provisions they amend or supersede, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided.

(Prior Code, Ch. 1, § 4)

**§ 1.01.024 REFERENCES TO GENERAL STATUTES THAT ARE LATER AMENDED.**

Whenever any provision of this code refers to or cites a section of the General Statutes of the State of North Carolina and that section is later amended or superseded, the code provision shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

(Prior Code, Ch. 1, § 5)

**§ 1.01.999 GENERAL PENALTY.**

(A) In accordance with G.S. § 160A-175, any act constituting a violation of the provisions of this Code or a failure to comply with any of its requirements shall subject the offender to a civil penalty of \$500.00, or any lesser amount if so stated in the citation. If the offender fails to remedy the violation and pay any civil penalty within ten days after being cited for said violation (or within the time prescribed by a citation if it provides for a longer period of time than ten days), the civil penalty may be recovered in a civil action in the nature of a debt.

*Amended 11/14/07 & Amended 11/18/10*

(B) This Code may also be enforced by any appropriate equitable action authorized by law, including injunctive relief, whether or not there is an adequate remedy at law.

*Amended 11/14/07 & Amended 11/18/10*

(C) Each day that any violation continues, regardless of the date of notice, shall be considered a separate offense for purposes of the penalties and remedies specified in this section. In such an event, civil penalties begin to accrue from the date of the first notice of violation. For continuing violations, the initial citation and requirement that the civil penalty be paid within the time prescribed there in shall be the only notice required to be given; and shall be deemed to be an on-going citation and notice for continuing violation after the date of the citation.

*Added 11/18/10*

(D) Any one, or any combination of the foregoing penalties and remedies may be used to enforce this Code.

*Added 11/18/10*

(E) Violation of the provisions of the Code or failure to comply with any of its requirements shall not constitute a misdemeanor as provided in G.S. 14-4, unless any specific penalty elsewhere provides to the contrary.

*Added 11/18/10*