**TOWN OF GLEN ALPINE**

**CODE OF ORDINANCES UPDATE**

 **ADOPTED JUNE 13, 2022**

**Part 1 Town Charter**

**Chapter 1 General Provisions**

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Chapter 1 - GENERAL PROVISIONS

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

The ordinances embraced in this, and the following chapters and sections shall constitute and be designated "the Code of Ordinances, Town of Glen Alpine, North Carolina," and may be so cited. Such Code may also be cited as "Glen Alpine Town Code."

**State Law reference—** Authority to adopt and issue a Code of Ordinances, G.S. 160A-77; pleading and proving ordinances, G.S. 160A-79.

Sec. 1-2. - 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 Town Board of Aldermen or the context clearly requires otherwise:

*Charter.* The term "Charter" means and refers to the Charter of the Town of Glen Alpine as printed in part I of this volume.

*Code, this Code.* The term "Code" or "this Code" means the Code of Ordinances, Town of Glen Alpine, North Carolina, as designated in section 1-1.

*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 is Saturday, Sunday or a legal holiday, which shall be excluded.

*County.* The term "county" means the County of Burke in the State of North Carolina, except as otherwise provided.

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

*G.S.* Whenever reference is made to the abbreviation "G.S." it shall be construed to refer to 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.

*Month.* The term "month" means a calendar month.

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

*Oath.* The term "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 "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

*Official, Town official.* The term "official" or "Town official" includes the mayor, Board of Aldermen members, Town Administrator, and zoning administrator.

*Official time standard.* Whenever certain hours are named in this Code, they shall mean standard time or daylight-saving time, as may be in current use in this Town.

*Officials, boards, commissions, etc.* Whenever reference is made to officials, boards, commissions, committees, and the like, by title only, they shall be construed as if followed by the words "of the Town of Glen Alpine, North Carolina."

*Owner.* The term "owner," applied to any property, includes any part owner, partner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of such property.

*Person.* The term "person" includes a corporation, firm, partnership, association, organization, and any other group acting as a unit, as well as an individual.

*Personal property.* The term "personal property" includes every species of property except real property as defined in this section.

*Preceding, following.* The terms "preceding" and "following" mean next before and next after, respectively.

*Property.* The term "property" includes real and personal property.

*Real property.* The term "real property" includes lands, tenements, and hereditaments.

*Shall; may.* The term "shall" is mandatory, and the term "may" is permissive.

*Sidewalk.* The term "sidewalk" means any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

*Signature* or *subscription.* "Signature" or "subscription" includes a mark when the person cannot write.

*State.* The term "state" shall be construed to mean the State of North Carolina, except as otherwise provided.

*Street.* The term "street" means and includes any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge, and their approaches within the Town and shall mean the entire width of the right-of-way between abutting property lines.

*Tenant.* The term "tenant" or "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.

*Tense.* Words used in the past or present tense include the future as well as the past and present.

*Town.* The term "the Town" means the Town of Glen Alpine, in the County of Burke and in the State of North Carolina, except as otherwise provided.

*Writing.* The terms "writing" and "written" include printing and any other mode of representing words and letters.

*Year.* The word "year" means a calendar year.

Sec. 1-3. - Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code, as far as they are the same as those of ordinances adopted prior to the adoption of this Code and included in this Code, shall be considered as continuations of such ordinances and not as new enactments.

Sec. 1-4. - Catchlines of sections; history notes and references.

1. 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 such sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.
2. The history and editor's notes following sections and the references scattered throughout the Code are not part of the Code but are merely aids for the benefit of the user of the Code.

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

It is the intention of the Town Board of Aldermen 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 valid 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 Aldermen without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Sec. 1-6. - Penalties; enforcement of ordinances; continuing violations.

1. Unless otherwise specifically provided, violation of any provision of this Code or any other Town ordinance shall subject the offender to the remedies provided in this section, except that where the General Statutes of North Carolina provide specific civil 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 stated in this section.
2. Unless otherwise specifically provided, violation of any provision of this Code or any other Town ordinance shall subject the offender to a civil penalty in the amount of $100.00 for each separate and distinct offense, with each day's continuing violation constituting a separate and distinct offense.
	1. Upon determination of a violation of any section of this Code, the penalty for which is a civil penalty, the Town shall cause a warning citation to be issued to the offender, setting out the nature of the violation, the section violated, the date of the violation and an order to cease immediately the violation or, if the violation is in the nature for which an order of abatement would be appropriate in a civil proceeding, stating a reasonable period of time in which the violation must be abated. The warning citation shall specify that a second citation shall incur a civil penalty and/or subject the offender to an order of abatement.
	2. Upon failure of the offender to obey the warning citation, a civil citation shall be issued by the appropriate official of the Town and either served directly on the offender or his duly designated agent or registered agent, if a corporation, in person or posted in the United States mail service by first class mail addressed to the last known address of the offender as contained in the Burke County tax records, the records of the Town or obtained from the offender at the time of issuance of the warning citation. The offender shall be deemed to have been served upon the mailing of such citation. The citation shall direct the offender to pay the penalty in person at Town hall, or alternatively to pay the citation by mail, within 15 days of the date of the citation. 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 and other remedies available to the Town may be pursued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated.
	3. If the offender fails to respond to a citation within 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 division of the state general court of justice for the collection of the penalty and/or pursue any other remedies available to the Town.
3. 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.
4. Any provision of this Code or any other Town ordinance that makes unlawful a condition existing upon or 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 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, 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;

* 1. Fixtures, furniture, or other movable property be removed from buildings on the property;
	2. Grass and weeds be cut;
	3. Improvements or repairs be made; or
	4. Any other action be taken that is necessary to bring the property into compliance with this Code or such 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 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 order of abatement in the nature of a mechanic's and materialman'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 the 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 with such order.

1. The provisions of this Code and any other Town ordinance may be enforced by any one, all or a combination of the remedies authorized and prescribed by this section, except that any provision, the violation of which incurs a civil penalty, shall not be enforced by criminal penalties.
2. 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 offense.

**State Law reference—** Similar provisions, G.S. 160A-175; penalty for violation of municipal ordinances, G.S. 14-4.

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

1. All ordinances passed after this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. In the case of repealed chapters, sections and subsections or any part by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected by such ordinances. The subsequent ordinances as numbered and printed, or omitted, in the case of repeal, shall be prima facie evidence of subsequent ordinances until a time that this Code and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the Town Board of Aldermen.
2. Amendments to any of the provisions of this Code may be made by amending these provisions by specific reference to the section number of this Code in the following language: "That section \_\_\_\_\_ of the Code of Ordinances, Town of Glen Alpine, North Carolina, is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.
3. If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, Town of Glen Alpine, North Carolina, is hereby amended by adding a section to be numbered \_\_\_\_\_, which section reads as follows:" The new provisions shall then be set out in full as desired.

Sec. 1-8. - Supplementation of Code.

1. By contract or by Town personnel, supplements to this Code shall be prepared on an annual basis. A supplement to the Code shall include all substantive, permanent and general parts of ordinances passed by the Town Board of Aldermen during the period covered by the supplement and all changes made by the supplement 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 that 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 adoption of the latest ordinance included in the supplement.
2. In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by their omission from reprinted pages.
3. When preparing a supplement to this Code, the codifier (meaning the person authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, as far 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.
	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 that embody the substantive sections of the ordinance incorporated into the Code).
	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.

Sec. 1-9. - Certain ordinances not affected by Code.

1. 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 ordinance promising or guaranteeing the payment of money of the Town or authorizing the issuance of any bonds of the Town, or any evidence of the Town's indebtedness.
	2. Any ordinance providing for public improvements and assessments for such improvements.
	3. Any zoning ordinance or any ordinance regulating or otherwise relating to the subdivision of land.
	4. Any appropriation ordinance or ordinance providing for an annual budget or for the transfer of funds and any ordinance levying or imposing taxes.
	5. Any ordinance annexing territory to the Town or discontinuing territory as a part of the Town.
	6. Any ordinance granting any franchise, permit or other right.
	7. Any ordinance approving, authorizing, or otherwise relating to any contract or agreement.
	8. Any ordinance setting utility rates or fees.
	9. Any ordinance setting salaries for Town officials or employees.
	10. Any ordinance accepting, dedicating, etc., any Town street.

All such ordinances are recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

1. Nothing in this Code or the ordinance adopting this Code shall 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.