Code of Ordinances



Town of Franklinton North Carolina



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10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

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§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the Town of Franklinton shall be designated as the Code of Ordinances for the Town of Franklinton, North Carolina, and may be so cited.

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

§ 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) For the purpose of this Code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD OF COMMISSIONERS or BOARD. The governing body of the Town of Franklinton, North Carolina. (Am. Ord. 3-15-2016)

CHARTER. The Charter of the Town of Franklinton, North Carolina. (Am. Ord. 3-15-2016)

CHURCH. A building or structure for public worship of religion, this term shall refer to all religious denominations. (Am. Ord. 3-15-2016)

CODE, THIS CODE or THIS CODE OF ORDINANCES. The Town Code as granted herein, or modified by amendment, revision, and adoption of new titles, chapters, or sections.

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. If the last day is Saturday, Sunday or a legal holiday, that day shall be excluded. (Am. Ord. 3-15-2016)

COUNTY. Franklin County, North Carolina.

GOVERNING BOARD; GOVERNING BODY. Shall mean the Mayor and Board of Commissioners of the Town of Franklinton. (Am. Ord. 3-15-2016)

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 the Town unless the context clearly requires otherwise.

PERSON. Extends to and includes person, persons, firm, corporation, co-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, the officers or agents thereof.

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

PROPERTY. Includes real and personal property. (Am. Ord. 3-15-2016)

SHALL. The act referred to is mandatory.

SIDEWALK. Any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians. (Am. Ord. 3-15-2016)

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. (Am. Ord. 3-15-2016)

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.

TENANT or OCCUPANT. When applied to a building or land, shall include any person who occupies the whole or a part of that building or land, whether alone or with others. (Am. Ord. 3-15-2016)

TOWN, MUNICIPAL CORPORATION or **MUNICIPALITY.** The Town of Franklinton, North Carolina.

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

YEAR. A calendar year, unless otherwise expressed; equivalent to the words **IN THE YEAR OF OUR LORD.**

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of the Town shall be by the following rules, unless the construction is plainly repugnant to the intent of the Town Board of Commissioners or of the context of the same ordinance;

- (A) Acts by assistants. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal; the requisition shall be satisfied by the performance of the act by an authorized agent or deputy.
- (B) *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.
- (C) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 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 the 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.

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omissions 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.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state/federal laws, shall be the official time within the Town for the transaction of all Town business.

§ 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 is Sunday, it shall be excluded.

§ 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 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 thereof 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 be itself 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 Board of Commissioners desires 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) If a statutory cite is included in the history, this indicated that the text of the section reads substantially the same as the statute. Example: (G.S. § 160A-69) (Ord. passed 1-17-80; Am. Ord. passed 1-1-85)
- (1) If a statutory cite is set forth as a "statutory reference" following the text of the section, this indicates that the reader should refer to the North Carolina General Statutes for further information.

§ 10.19 ELECTRONIC NOTICE OF NEW FEES AND FEE INCREASES; PUBLIC COMMENT PERIOD.

- (A) The Town shall provide notice of the imposition of or increase in fees or charges applicable solely to the construction of development subject to the provisions of Title XV (Land Usage) on the Town's website at least seven days prior to the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration.
- (B) During the consideration of the imposition of or increase in fees or charges as provided in subsection (A) of this section, the governing body of the Town shall permit a period of public comment.
- (C) This section shall not apply if the imposition of or increase in fees or charges is contained in a budget filed in accordance with the requirements of G.S. 159-12. (2009-436, s. 2.) *Statutory reference:* G.S. § 160A-4.1 (Am. Ord. 3-15-2016) § 10.99 GENERAL PENALTY.
- (A) Unless otherwise specifically provided, if any person shall violate any provision of this Code of Ordinances, except any provision regulating the operation or parking of vehicles, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$500. No fine shall exceed \$50 unless the Code provision expressly states that the maximum fine is greater than \$50. If any person shall violate an ordinance of the Town regulating the operation or parking of vehicles, he shall be responsible for an infraction and shall be required to pay a penalty of not more than \$50.00. *Statutory reference:* G.S. § 14-4(a) (Am. Ord. 4-22-2010)
- (B) Any provision of this Code or any other ordinance of the Town may be enforced by an appropriate equitable remedy issued 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.
- (C) Any provision of this Code or any other ordinance of the Town 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, including the State Rules of Civil Procedure in general and Rule 65 in particular.

- (1) In addition to an injunction, the court may enter an order of abatement as part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Code or the ordinance.
- (2) 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 material-man's lien.
- (3) The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance. 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.
- (4) Cancellation of an order of abatement shall not suspend or cancel an injunction issued in connection therewith.
- (D) The provisions of this Code and any other ordinance of the Town may be enforced by any, one, all, or a combination of the remedies authorized and prescribed by this section.
- (E) Except as otherwise specifically provided, each day's continuing violation of any provision of this Code or any other ordinance of the Town shall be a separate and distinct offense.
- (F) Violation of this Code and other ordinances of the Town shall subject the offender to a civil penalty to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within the prescribed period of time after he has been cited for violation thereof. (G.S. § 160A-175)
- (G) In addition to all other punishment herein provided for, any person found guilty of violating any of the provisions of this Code or the ordinances, or provisions thereof, of the Town may be required to pay court costs, or any portion thereof, in the discretion of the court. ('81 Code, § 1-12)

- (H) The imposition of a penalty under the provisions of this Code shall not prevent the revocation or suspension of any license, franchise or permit issued or granted under the provisions of this Code.
- (I) In the event any violation of this Code is designated as a nuisance under the provisions of this Code, such nuisance may be summarily abated by the Town in addition to the imposition of a fine or imprisonment. ('81 Code, § 1-13)
- (J) Any violation of this Code, by any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization while acting within the scope of his office or employment, shall in every case also be deemed to be a violation by the corporation, association or organization.
- (K) Appeal of Civil Penalty: All civil penalties may be appealed within seven (7) business days of the date of issuance of the penalty. Appeals shall be submitted to the Town Manager or Chief of Police in writing and must contain the basis for why the offender believes that the penalty should be rescinded. The Town Manager or Chief of Police shall provide a written decision to the offender within ten (10) days of receipt of the appeal. The Town Manager may uphold, reverse, or modify the civil penalty assessed. All decisions of the Town Manager shall be final.

(Ord. Amend. Passed 3-18-2025)

Any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization shall be subject and liable to punishment as well as the corporation or unincorporated association or organization for the violation by it of any provisions of this Code, where the violation was the act or omission, or the result of the act, omission or order of any such person. ('81 Code, § 1-14)

Cross-reference: Power of Board of Commissioners to impose and collect fines for ordinance violations, see Charter, § 6; Penalty for violation of ordinances, see Charter, § 35 **Statutory reference:** Violation of ordinances constitutes a Class 3 misdemeanor punishable by a fine not exceeding \$500, see G.S. § 14-4; Authority of the Town to enforce ordinances, see G.S. § 160A-175 (Am. Ord. 4-22-2010)

TITLE III: ADMINISTRATION

Chapter

- **30. TOWN GOVERNANCE**
- 31. OFFICERS AND EMPLOYEES
- 32. BOARDS AND COMMISSIONS
- 33. FINANCE AND TAXATION
- 34. POLICE DEPARTMENT

CHAPTER 30: TOWN GOVERNANCE

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GENERAL PROVISIONS

§ 30.01 GOVERNING BODY.

The Governing Body of the Town shall consist of a Mayor and a five (5) member Board of Commissioners. The Town shall operate under the Council-Manager form of government in accordance with Part 2 of Article VII of Chapter 160A N.C.G.S.

State law references: Board of Commissioners to organize Town government, see G.S. 160A-147 et al.

§ 30.02 GOVERNING BOARD TO APPOINT COMMITTEES.

The Mayor and Board of Commissioners shall appoint committees.

§ 30.03 RESIGNATIONS OF MEMBERS.

A resignation of any member of the Board shall be in writing and the resignation shall lie on the table until the next regular meeting unless considered by unanimous consent. ('81 Code, § 2-29)

§ 30.04 VACANCIES.

Any vacancy, caused by the death, resignation or disqualification of a member of the Board, shall be filled by a majority vote of the Board for the remainder of the unexpired term. ('81 Code, § 2-30) All vacancies occurring from any cause whatsoever in any elective or appointive office shall be filled by the Board at its next regular meeting or as soon thereafter as practicable. ('81 code, § 2-111)

Statutory reference: Similar provisions, see G.S. § 160A-63

MAYOR AND BOARD OF COMMISSIONERS

§ 30.10 GENERAL DUTIES OF MAYOR.

The Mayor shall be Chief Executive of the Town. The Mayor shall preside at all Commissioners meetings. The powers and duties of the Mayor shall be such as are conferred upon him by law, together with such other powers and duties as may be conferred upon him by the Board for the purpose of service of civil process, and for all ceremonial purposes.

Statutory reference: For the powers and duties of the Mayor, see G.S. § 160A-67

§ 30.11 GENERAL DUTIES OF THE BOARD OF COMMISSIONERS.

The Board of Commissioners' major responsibilities include adopting the annual Town budget, setting the Town property tax rate, establishing Town policies and acting on

zoning and other land use matters. The Board also appoints members of numerous citizen boards, committees and commissions.

§ 30.12 MAYOR PRO TEMPORE; DISABILITY OF MAYOR.

At the organizational meeting, the Board shall elect from among its members a Mayor Pro Tempore to serve at the pleasure of the Board. A Commissioner serving as Mayor Pro Tempore shall be entitled to vote on all matters and shall be considered a Board member for all purposes, including the determination of whether a quorum is present. During the absence of the Mayor, the Board may confer upon the Mayor Pro Tempore any of the powers and duties of the Mayor. If the Mayor should become physically or mentally incapable of performing the duties of his office, the Board may by unanimous vote declare that he is incapacitated and confer any of his powers and duties on the Mayor Pro Tempore. Upon the Mayor's declaration that he is no longer incapacitated, and with the concurrence of a majority of the Board, the Mayor shall resume the exercise of his powers and duties. ('81 Code, § 2-125)

Statutory reference: Similar provisions, see G.S. § 160A-70

§ 30.13 RESIDENCE.

No person shall hold any elective public office of the Town unless he is a qualified voter of the Town. ('81 Code, § 2-108)

§ 30.14 ADDITIONAL POWERS AND DUTIES.

The Board, the Mayor or the Town Manager shall have the power from time to time to require further and other duties of all officers whose duties are described in this Code and to define and prescribe powers and duties of all officers elected or appointed to any office provided for by the Town Charter whose duties are not therein especially mentioned. ('81 Code, § 2-109)

§ 30.15 COMPENSATION; BOND, OATH.

The Board of Commissioners may pay compensation and may require oaths, bonds and sureties as it deems just and proper for officers and employees of the Town, provided the compensation, bonds or oaths are not fixed by state law or the Town Charter. The Town Clerk shall keep a record of all officers and employees who are receiving compensation, who is under bond, the amount and surety on same and all who are required to take an oath before being admitted to office. ('81 Code, § 2-110). **Statutory reference:** Compensation of employees, see G.S. § 160A-162; Oaths of persons appointed to town office, see G.S. § 160A-61

§ 30.16 ETHICS EDUCATION PROGRAM REQUIRED.

- (A) All members of governing boards of cities, counties, local boards of education, unified governments, sanitary districts, and consolidated city-counties shall receive a minimum of two clock hours of ethics education within 12 months after initial election or appointment to the office and again within 12 months after each subsequent election or appointment to the office.
- (B) The ethics education shall cover laws and principles that govern conflicts of interest and ethical standards of conduct at the local government level.
- (C) The ethics education may be provided by the North Carolina League of Municipalities, North Carolina Association of County Commissioners, North Carolina School Boards Association, the School of Government at the University of North Carolina at Chapel Hill, or other qualified sources at the choice of the governing board.
- (D) The clerk to the governing board shall maintain a record verifying receipt of the ethics education by each member of the governing board.

Statutory reference: G.S. 160A-86

MEETINGS; RULES OF PROCEDURE

§ 30.20 QUORUM.

A majority of the actual membership of the Board of Commissioners plus the Mayor, excluding vacant seats, shall constitute a quorum. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present. ('81 Code, § 2-26)

Statutory reference: Quorum, see G.S. § 160A-74

§ 30.21 REGULAR MEETINGS.

The regular meeting of the Governing Board shall be on the third Tuesday of each month beginning at 7:00 p.m. ('81 Code, § 2-25) (Ord. passed 12-17-91).

Statutory reference: Regular meetings, see G.S. §160A-71a

§ 30.22 SPECIAL, EMERGENCY AND RECESSED MEETINGS.

(A) Special Meetings. The Mayor, the Mayor Pro Tempore, or any two members of the Board of Commissioners may at any time call a special Board meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. At least forty-eight (48) hours before a special meeting called in this matter, written notice of the meeting stating its time and place and the subjects to be considered shall be:

- (1) Delivered to the Mayor and each Board member or left at his or her usual dwelling place;
- (2) Posted on the Board's principal bulletin board, or if none, at the door of the Board's usual meeting room; and
- (3) Mailed or delivered to each newspaper, wire service, radio station, television station and person who has filed a written request for notice with the Town Clerk. Only those items of business specified in the notice may be transacted at a special meeting called in this manner, unless all members are present or have signed a written waiver of notice. A special meeting may also be called or scheduled by vote of the Board in open session during another duly called meeting. The motion or resolution calling or scheduling the special meeting shall specify its time, place and purpose.
- (B) Emergency Meetings. The Mayor, the Mayor Pro Tempore, or any two members of the Board may at any time call an emergency Board meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the Mayor and each Board member or left at his or her usual dwelling place at least six (6) hours before the meeting. Notice of the meeting shall be given to each local newspaper, local wire service, local radio station and local television station that has filed a written emergency meeting notice request, which includes the newspaper's wire service's or station's telephone number, with the Town Clerk. This notice shall be given either by telephone or by the same method used to notify the Mayor and the Board members, and shall be given at the expense of the party notified. Emergency meetings shall only be called because of generally unexpected circumstances that require immediate consideration by the Town Board. Only business connected with the emergency may be considered at an emergency meeting.
- (C) Recessed Meetings. A properly called regular, special or emergency meeting may be recessed by a procedural motion made and adopted as provided in Section 30.21 in open session during the regular, special or emergency meeting. The motion shall state the time and place when the meeting will reconvene. No further notice need be given of a recessed session of a properly called regular, special or emergency meeting.

 Statutory reference: Notice of special meetings, see G.S. 143-318.8; special meetings, see G.S. 160A-71b.

§ 30.23 AGENDA.

(A) The Town Clerk or Town Manager shall prepare an agenda for each meeting in concert with the Mayor. A request to have an item of business placed on the agenda must be received at least two (2) weeks prior to the meeting. Any Board member may have an item placed on the agenda so long as the request is timely and is consistent with the notice requirements of section 30.21. An agenda package shall be prepared that includes, for each item of business placed on the agenda, as much background information on the subject as is available and feasible to reproduce. Each Board member shall receive a copy

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of the agenda and the agenda package and they shall be available for public inspection and distribution or copying when they are distributed to the Board members.

- (B) As it's first order of business at each meeting, the Board shall discuss and amend the agenda, if necessary. The Board may by majority vote add items to or subtract items from the agenda, except that:
- (1) The Board may not add items to the agenda stated in the notice of a special meeting called by the Mayor, Mayor Pro Tempore, or two (2) Board members, unless all members are present, or those who are absent sign a written waiver of notice; and,
 - (2) Only business connected with the emergency may be considered at an emergency meeting.
- (3) The Board shall not deliberate, vote or otherwise take action on any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the Board to understand what is being deliberated, voted or acted on. The Board may, however, deliberate, vote or otherwise take action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted or acted on are available for public inspection at the meeting. (81 Code §2-43)

§ 30.24 ORDER OF BUSINESS.

(A) Items shall be placed on the agenda according to the order of business. The order of business for each regular meeting shall be as follows:

Call to Order Welcome	
Item I.	Amendment of Agenda
Item II.	Consideration of Minutes
Item III.	Public Comment
Item IV.	Presentations, Recognitions, Awards
Item V.	Public Hearings
Item VI.	Committee Reports
Item VII.	Manager's Report
Item VIII.	Old Business
Item IX.	New Business
Item X.	Mayor's Announcements
Item XI.	Adjournment

- (B) The Mayor or a majority of the Board of Commissioners may bring an agenda item to debate out of order to accommodate members of the public or visitors.
- (C) For items grouped together under Item II, the Board may vote for these items as a group, with one motion to approve the lot. Any member of the Board may remove any such item for discussion and a separate vote by so stating their desire to do so.

Statutory reference: GS 160A-71

§ 30.25 ROBERT'S RULES OF ORDER.

Except where otherwise provided by law or ordinance, the procedure of the Board of Commissioners shall be governed by the current edition of *Robert's Rules of Order*. ('81 Code, §2-44)

Statutory reference: Authority of Board to adopt rules of procedure, see G.S. § 160A-71

§ 30.26 PROPOSITIONS SECONDED; REDUCED TO WRITING.

No propositions shall be entertained by the Mayor until it has been seconded, and every proposition shall, when required by the Mayor or any member, be reduced to writing. ('81 Code, § 2-45)

Statutory reference: Authority of Board to adopt rules of procedure, see G.S. § 160A-71

§ 30.27 VOTING.

No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under G.S. 14-234, 160A-381(d), or 160A-388(e1). In all other cases, a failure to vote by a member who is physically able, or who has withdrawn without being excused by a majority vote of the remaining members present shall be recorded as an affirmative vote. The question of the compensation and allowances of members of the Board of Commissioners is not a matter involving a member's own financial interest or official conduct.

An affirmative vote equal to a majority of all the members of the Board of Commissioners not excused from voting on the question in issue, including the Mayor's vote in case of an equal division, shall be required to adopt an ordinance, take any action having the effect of an ordinance, authorize or commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of the Town.

In addition, no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two thirds of all the actual membership of the Board of Commissioners, excluding vacant seats and not including the Mayor unless the Mayor has the right to vote on all questions before the Board of Commissioners. For purposes of this section, an

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ordinance shall be deemed to have been introduced on the date the subject matter is first voted on by the Board of Commissioners.

Statutory reference: Voting, see G.S. § 160A-75

§ 30.28 VOTE OF MAYOR.

When there is an equal division of the Board upon any question, the Mayor may vote to break the tie, but he shall have no vote under any other circumstances. ('81 Code, § 2-47)

Statutory reference: Voting by Mayor, see G.S. § 160A-69

§ 30.29 MINUTES.

Every ordinance, resolution and motion adopted by the Board shall be made a part of the minutes. The minutes of each meeting shall be approved by the Board and shall be signed by the Mayor and the Clerk. ('81 Code, § 2-48)

Statutory reference: Minutes of Board meetings to be kept and to be available for public inspection, see G.S. § 160A-72; Clerk to keep journal of Board's proceedings, see G.S. § 160A-171

§ 30.30 SPECIAL BUSINESS OF FUTURE MEETING.

If the Board directs any matter to be the special business of a future meeting, the same shall have precedence over all other business at that meeting. ('81 Code, § 2-49) **Statutory reference:** Authority of Board to adopt rules of procedure, see G.S. § 160A-71

§ 30.31 MOTIONS TO ADJOURN.

A motion to adjourn shall always be in order and shall be decided without debate. ('81 Code, § 2-50)

Statutory reference: Authority of Board to adopt rules of procedure, see G.S. § 160A-71

ORDINANCES

§ 30.40 EFFECTIVE DATE.

Every ordinance of the Town shall be in force from the date of its passage, except as otherwise provided in the ordinance or by law. ('81 Code, § 2-66)

§ 30.41 NUMBERING.

All ordinances of the Town shall be consecutively numbered in annual series, the number of a particular ordinance to consist of the year in which passed and the consecutive number of the ordinance. ('81 Code, § 2-67)

§ 30.42 NOTICE.

Notice of the passage of every ordinance shall be published once in a newspaper published in the Town, or, if no paper is available, shall be posted at the Town Hall immediately after its passage and may also be posted on the Town's website. ('81 Code, § 2-68)

§ 30.43 FILING.

A true copy of each ordinance passed by the Board of Commissioners shall be filed in an ordinance book separate and apart from the Board's record of minutes, until the ordinance is codified as provided in G.S. § 160A-77. The ordinance book shall be appropriately indexed and maintained for public inspection in the office of the Town Clerk. ('81 Code, § 2-69)

Statutory reference: Similar provisions, see G.S. § 160A-78

§ 30.44 NOTATION OF AMENDING OR REPEALING ORDINANCES.

The Town Clerk shall write on the first page of every ordinance entered in the book described in § 30.43, that has been amended or repealed as the case may be, the words "amended" or "repealed" with a reference to the page of the ordinance book where the amending or repealing section can be found. ('81 Code, § 2-70)

AMENDMENTS TO CODE

§ 30.55 EFFECT.

Any and all additions and amendments to the Code, when passed in a form as to indicate the intention of the Board to make the same apart hereof, shall be deemed to be incorporated in the Code so that reference to the "Code of Ordinances, Town of Franklinton," shall be understood and intended to include the additions and amendments. ('81 Code, § 2-81)

§ 30.56 MANNER.

All ordinances passed subsequent to the adoption of the Code which amend, repeal or in any way affect the Code may be numbered in accordance with the numbering system of the Code and printed for inclusion herein, or 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, and the subsequent ordinances, as numbered and printed or omitted, in the case of repeal, shall be *prima facie* evidence of the subsequent ordinances until the time that the Code and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the Board. ('81 Code, § 2-82)

§ 30.57 LANGUAGE.

Amendments to any of the provisions of the Code should be made by repealing the provisions by specific to the article or section of the Code in substantially the following language: "That section of the Code of Ordinances, Town of Franklinton, North Carolina, is hereby repealed." A new section, containing the desired amendment, shall then be substituted in its place. ('81 Code, § 2-83)

§ 30.58 NEW MATERIAL.

- (A) In the event a new section or other provision not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, Town of Franklinton, North Carolina, is hereby amended by adding a section (or chapter or other designation as the case may be) to be numbered sequentially, which reads as follows: "The new provisions shall then be set out in full as desired."
- (B) In lieu of division (A), when the Board of Commissioners desires to enact an ordinance of a general and permanent nature embracing a subject not previously existing in the Code, which the Board desires to incorporate into the Code, a provision in substantially the following language may be made a part of the ordinance: "It is the intention of the Board of Commissioners, and it is hereby ordained, that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, Town of Franklinton, North Carolina, and the sections of this ordinance may be renumbered to accomplish the intention."
- (C) In addition to the indication thereof as may be contained in the text of the ordinance, a caption or title shall be shown in concise form above the ordinance. ('81 Code, § 2-84)

§ 30.59 REPEAL.

All sections, chapters or other provisions of the Code desired to be repealed should be specifically repealed by section number, chapter or other number, as the case may be. ('81 Code, § 2-85)

§ 30.60 ORDINANCES CONFINED TO ONE SUBJECT.

Not more than one chapter, article or section of the Code shall be amended, repealed or ordained by any one ordinance, unless the chapters or sections are consecutive. ('81 Code, § 2-86)

§ 30.61 AMENDMENTS SUBJECT TO GENERAL PENALTY.

In case of the amendment by the Board of Commissioners of any section of the Code for which a penalty is not provided, the general penalty as provided in §10.99 of the

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Code shall apply to the section as amended; or in case the amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in the other section shall be held to relate to the section so amended, unless the penalty is specifically repealed therein. ('81 Code, §2-87)

§ 30.62 SUPPLEMENTATION TO CODE.

- (A) By contract or by Town personnel, supplements to the Code shall be prepared and printed whenever authorized or directed by the Board of Commissioners. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the 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 the Code, all portions of the Code which have been repealed shall be excluded from the Code by omissions thereof from reprinted pages.
- (C) When preparing a supplement to the Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive 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 (i.e., division, section, subchapter, chapter or title);
- (2) Provide appropriate captions, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in 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 section," "this division," and the like, 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); and,

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(5) Make other non-substantive 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. ('81 Code, § 2-88)
Statutory reference: Authority of the Town to provide for loose-leaf supplementation of
Code, see G.S. § 160A-77

CHAPTER 31: OFFICERS AND EMPLOYEES

Section

Town Manager

- 31.15 Office Created
- 31.16 Duties
- 31.17 Duties as Finance Officer

Town Attorney

- 31.25 Appointment
- 31.26 Duties

Town Clerk

- 31.41 General Duties
- 31.42 Duties as Tax Collector

TOWN MANAGER

§ 31.15 OFFICE CREATED.

Pursuant to G.S. §§ 160A-101 and 160A-102, the Town charter, as set out in Chapter 320 of 1893 Private Laws of North Carolina, as amended, the Town shall operate under the Council-Manager form of government, in accordance with G.S. §§ 160A-247 *et seq.* and any charter provisions not in conflict therewith. (Ord. passed 2-1-94)

The Board of Commissioners shall appoint a Town Manager to serve at its pleasure. The Manager shall be appointed solely on the basis of his executive and administrative qualifications. He need not be a resident of the city or state at the time of his appointment. The office of Town Manager is hereby declared to be an office that may be held concurrently with other appointive (but not elective) offices pursuant to Article VI, § 9, of the Constitution (G.S. 160A-147).

Reference: Session Laws 2007-138 effective June 28, 2007.

§ 31.16 DUTIES.

The Town Manager shall be the Chief Administrator of the Town. He shall be responsible to the Board of Commissioners for administering all municipal affairs placed in his charge by them, and shall have the following powers and duties:

- (1) He shall appoint and suspend or remove all Town officers and employees not elected by the people, and whose appointment or removal is not otherwise provided for by law, except the Town Attorney, in accordance with such general personnel rules, regulations, policies, or ordinances as the Board of Commissioners may adopt;
- (2) He shall direct and supervise the administration of all departments, offices, and agencies of the Town, subject to the general direction and control of the Board of Commissioners, except as otherwise provided by law;
- (3) He shall attend all meetings of the Board of Commissioners and recommend any measures that he deems expedient;
- (4) He shall see that all laws of the state, the Town charter, and the ordinances, resolutions, and regulations of the Board of Commissioners are faithfully executed within the Town;
- (5) He shall prepare and submit the annual budget and capital program to the Board of Commissioners;
- (6) He shall annually submit to the Board of Commissioners and make available to the public a complete report on the finances and administrative activities of the Town as of the end of the fiscal year;

- (7) He shall make any other reports that the Board of Commissioners may require concerning the operations of Town departments, offices, and agencies subject to his direction and control;
- (8) He shall perform any other duties that may be required or authorized by the Board of Commissioners. (G.S. 160A-148)

§ 31.17 DUTIES AS FINANCE OFFICER.

It shall be the duty of the Town Manager, in his capacity as Finance Officer, to:

- (A) Receive and keep an account of all monies which shall be paid into his hands on behalf of the Town and deposit same;
- (B) Render a full and complete statement of his receipts and disbursements to the Board at its regular meetings and at other times as the Board may require;
- (C) Make an annual transcript of all receipts and disbursements of accounts of the Town. ('81 Code, § 2-168)

TOWN ATTORNEY

§ 31.25 APPOINTMENT.

At the first regular meeting following its election and qualification, the Board of Commissioners shall appoint a Town Attorney. ('81 Code, § 2-151).

Statutory reference: Town Attorney, see G.S. § 160A-173

§ 31.26 DUTIES.

The Board of Commissioners shall appoint a Town Attorney whose duties shall be to:

- (A) Prosecute or defend any and all suits or actions at law or equity to which the Town may be a party, or in which it may be interested, or which may be brought against, or by, any officer of the Town, or in the capacity of the person as an officer of the Town:
- (B) See to the full enforcement of all judgments or decrees rendered or entered in favor of the Town;
- (C) See to the completion of all special assessment proceedings and condemnation proceedings;

- (D) Draft or review any contract, lease, or other document or instrument to which the Town may be a party, and approve all ordinances and resolutions of the Board of Commissioners as to form;
- (E) At the request of the Board of Commissioners, draft ordinances covering any subjects within the power of the Town;
 - (F) Attend meetings of the Board of Commissioners on request; and
- (G) Perform any other duties required of him by G.S. 160A-173 and other laws and ordinances.

Statutory Reference: Duties of the attorney, see G.S. 160A-173.

TOWN CLERK

§ 31.41 GENERAL DUTIES.

It shall be the duty of the Town Clerk to:

- (A) Attend all meetings of the Board.
- (B) Keep an accurate record of all proceedings of the Board.
- (C) Make financial reports and statements as the Board may require.
- (D) Keep the books of accounts of the Town, which shall show the following:
- (1) A detailed statement of all monies collected for the Town by all Town officers and officials.
 - (2) All property belonging to the Town and income derived there-from.
 - (3) A separate account for each department of the Town government.
 - (E) Keep the original of all ordinances and the corporate seal.
- (F) Keep a record of all officers and employees, who are receiving compensation, who are under bond, and the amount and surety on the bonds; and all who are required to take oath before being admitted to office.
 - (G) Act as Tax Collector [see § 31.42].
- (H) Perform other duties as may be assigned to him by the Town Manager or by law. ('81 Code, § 2-167). *Statutory reference:* Duties of Town Clerk, see G.S. § 160A-171

§ 31.42 DUTIES AS TAX COLLECTOR.

It shall be the duty of the Town Clerk, in his capacity as Tax Collector:

- (A) To employ all lawful means to collect all property, dog, license, privilege and franchise taxes with which he is charged by the governing body.
- (B) To give bonds as may be required of him by the Board under the provisions of G.S. § 105.349.
- (C) To perform duties in connection with the preparation of the tax records and tax receipts as the Board may direct under the provisions of G.S. §§ 105-319 and 105-320.
 - (D) To keep adequate records of all collections he makes.
- (E) To account for all monies coming into his hands in the form and detail as may be required by the chief accounting officers of the Town.
- (F) To make settlement at the times required by G.S. § 105-373 and at any other time the Board may require him to do so.
- (G) To submit to the Board at each of its regular meetings a report of the amount he has collected on each year's taxes with which he is charged, the amount remaining uncollected, and the steps he is taking to encourage or enforce payment of uncollected taxes.
 - (H) To send bills or notices of taxes due to taxpayers if instructed to do so by the Board.
- (I) To visit delinquent taxpayers to encourage payment of taxes if instructed to do so by the Board. ('81 Code, § 2-169)

Cross-reference: Taxation, §§ 33.15 through 33.31

Statutory references: Collection of taxes on property, see G.S. § 105-271 et seq.

Tax Collector, see G.S. § 105-349 et seq.

CHAPTER 32: BOARDS AND COMMISSIONS

Section

Economic Development Committee

- 32.20 Purpose
- 32.21 Composition
- 32.22 Duties
- 32.23 Terms of Members
- 32.24 Meetings
- 32.25 Quorum
- 32.26 Report to Board
- 32.27 Attendance at Meetings; Removal

Tree Committee/Ordinance

- 32.30 Purpose
- 32.31 Definitions
- 32.32 Authority and Power
- 32.33 Tree Advisory Board
- 32.34 Tree Planting and Care Standards
- 32.35 Prohibition Against Harming Public Trees
- 32.36 Adjacent Owner Responsibility
- 32.37 Certain Trees Declared a Nuisance
- 32.38 Violation and Penalty
- 32.39 Appeals
- 32.40 Savings and Repeal
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Planning Board

- 32.50 Establishment
- 32.51 Membership, terms, and vacancies
- 32.52 Organization, rules, meetings, and records
- 32.53 Compensation
- 32.54 Powers and duties
- 32.55 Annual report and budget request

ECONOMIC DEVELOPMENT COMMITTEE

§ 32.20 PURPOSE; INTENT.

The purpose and intent of this subchapter is to establish an advisory committee to the Board of Commissioners for economic development issues for the Town of Franklinton. The Economic Development Committee will act as a liaison between the Town and Franklin County Economic Development staff, boards, organizations and businesses.

§ 32.21 COMPOSITION.

The Committee shall be comprised of 11 members appointed by the Franklinton Board of Commissioners. The following individuals and professions shall be represented on the committee:

Town Mayor, Town Manager, Citizen, Commercial or residential real estate agent, Banker Franklin County Economic Development representative, Local medical representative, Local business owner, OneFranklinton representative, Local utility service company representative and a Local industry representative.

§ 32.22 DUTIES.

The Economic Development Committee shall be responsible for:

- (A) Serve as a liaison between Board of Commissioners and the Franklin County EDC, and Franklin County Committee of 100;
- (B) Advise Town on existing economic development activities and open lines of communication;
- (C) Work with County Economic Development staff to help the Town set economic priorities;
 - (D) Develop possible local incentives and policies;
 - (E) Identify and help pursue economic development grants;
 - (F) Support the economic development strategies of the Franklinton Strategic Plan;
 - (G) Provide forum for economic development presentations;
- (H) Help County Economic Development staff identify local projects; and, host meetings with local landowners.

§ 32.23 TERMS OF MEMBERS.

Members of the Committee shall serve for three-year terms; provided, however, that of the members initially appointed to the Committee, two shall be appointed for a four-year term, three shall be appointed for a three-year term, and two shall be appointed for a two year term. ('81 Code, § 14-40) (Ord. passed 7-16-79)

Ex officio members may be appointed, as necessary.

§ 32.24 MEETINGS.

The Committee shall set a regular schedule for meetings, and the Chairperson may call a special meeting upon the request of a majority of members of the Committee. ('81 Coded, § 14-+42) (Ord. passed 7-16-79)

§ 32.25 QUORUM

A quorum in meetings of the Committee shall consist of four members. ('81 Code, § 14-43). (Ord. paased 7-16-79)

§ 32.26 REPORT TO BOARD

The Committee shall submit an annual report of its activities and recommendations and copies of its minutes and proceedings of its regular and special meetings to the Board of Commissioners.

('81 Code, § 14-46) (Ord. passed 7-16-79)

§ 32.27 ATTENDANCE AT MEETINGS; REMOVAL

Faithful attendance at meetings of the Committee is to be considered a prerequisite to continued membership. Any member missing three consecutive meetings may be removed by the Board of Commissioners.

('81 Code, § 14-44) (Ord. passed 7-16-79)

TREE COMMITTEE/ORDINANCE

§ 32.30 PURPOSE

To enhance the quality of life and the present and future health, safety, and welfare of all residents, to enhance property values, and to ensure proper planting and care of trees on public property, the Franklinton Board of Commissioners herein delegates the authority and responsibility for managing public trees, creates a Tree Advisory Board, establishes practices governing the planting and care of trees on public property, and makes provision for the emergency removal of trees on private property under certain conditions.

('81 Code, § 14-36) (Ord. passed 7-16-79) (Ord. Amend. Passed 12-20-2022)

§ 32.31 DEFINITIONS

As used in this Article, the following words and phrases shall have the meanings indicated:

Damage – any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part of the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

Nuisance – any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety, and welfare.

Parkway – the area along a public street between the curb and the sidewalk; or if there is no curb or sidewalk, the unpaved portion of the area between the street right-of-way line and the paved portion of the street or alley.

Public property – all grounds and rights-of-way (ROWs) owned or maintained by the Town. Public tree – any tree or woody vegetation on town-owned or town-maintained property or rights-of-way.

Top or Topping – the non-standard practice of cutting back of limbs to stubs within a tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. The Franklinton Tree Committee referred to in this subchapter as the "Committee" is hereby created and established for the Town.

('81 Code, § 14-37) (Ord. passed 7-16-79) (Ord. Amend. Passed 12-20-2022)

§ 32.32 AUTHORITY AND POWER

- (a) Delegation of authority and responsibility. The Director of the Public Works Department and/or their designee, hereinafter referred to as the "Public Works Director", shall have full authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in or upon all municipal streets, rights-of-ways, town parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.
- (b) Coordination among town departments. All town departments will coordinate as necessary with the Public Works Director and will provide services as required to ensure compliance with this Ordinance as it relates to streets, alleys, rights-of-way, drainage, easements, and other public properties not under direct jurisdiction of the Public Works Director.
- (c) Interference. No person shall hinder, prevent, delay, or interfere with the Public Works Director or his agents while engaged in carrying out the execution or enforcement of this Ordinance.

('81 Code, § 14-38) (Ord. passed 7-16-79) (Ord. Amend. Passed 12-20-2022)

§ 32.33 TREE ADVISORY BOARD

The Board of Commissioners hereby creates a "Tree Advisory Board," hereinafter referred to as the "Board."

- (a) Duties. The Board shall act in an advisory board to the Public Works Director and shall:
 - (1) Coordinate and promote Arbor Day activities;
 - (2) Review and update a five-year plan to plant and maintain trees on town property;
 - (3) Support public awareness and education programs relating to trees;
 - (4) Submit an annual report of its activities to the Board of Commissioners;
 - (5) Assist with the annual application to renew the Tree City USA designation;
 - (6) Recommend a list of tree species for planting on town property, and a list of prohibited species; and
 - (7) Other duties that may be assigned by the Board of Commissioners.
- (b) Membership. The Board shall consist of five members approved by the Board of Commissioners. Members of the Board will serve without compensation.
- (c) Term of office. Board members shall be appointed for three-year staggered terms . If a vacancy shall occur during the term of any member, a successor shall be appointed by the Board of Commissioners.
- (d) Officers. The Board shall annually select one of the members to serve as chair, may appoint a second member to serve as vice-chair, and may appoint a third member to serve as secretary.
- (e) Meetings. The Board shall meet a minimum of four times each year. All meetings shall be open to the public. The Board chair may schedule additional meetings as needed.

('81 Code, § 14-39) (Ord. passed 7-16-79) (Ord. Amend. Passed 12-20-2022)

§ 32.34 TREE PLANTING AND CARE STANDARDS

- (a) Standards. All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.
- (b) Requirements of franchise utility companies. The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards.
- (c) Preferred species list. The Public Works Director shall maintain an official list of desirable tree species for planting on public property in two size classes: Ornamental (20 feet or less in height at maturity) and Shade (greater than 20 feet at maturity). Trees from this approved list may be planted without special permission; other species may be planted with written approval from the Public Works Director.
- (d) Planting distances. The Public Works Director shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection or within 10 feet of a fire hydrant.

(e) Planting trees under electric utility lines. Only trees listed as Ornamental trees on the official town tree species list may be planted under or within 15 lateral feet of any overhead utility wire.

('81 Code, § 14-40) (Ord. passed 7-16-79) (Ord. Amend. Passed 12-20-2022)

§ 32.35 PROHIBITION AGAINST HARMING PUBLIC TREES

- (a) It shall be unlawful for any person, firm, or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the Public Works Director.
- (b) It shall be unlawful for any person, firm, or corporation to attach any cable, wire, sign, or any other object to any street, park, or public tree.
- (c) It shall be unlawful for any person, firm, or corporation to "top" any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical may be exempted from this provision at the determination of the Public Works Director.
- (d) Any person, firm, corporation, or town department performing construction near any public tree(s) shall consult with the Public Works Director and shall employ appropriate measures to protect the tree(s), according to procedures contained in the Best Management Practices (BMPs) for "Managing Trees During Construction" published by the International Society of Arboriculture.
- (e) Each violation of this section as determined and notified by the Public Works Director shall constitute a separate violation, punishable by fines and penalties under Section 10, in addition to mitigation values placed on the tree(s) removed or damaged in violation of this section.

('81 Code, § 14-41) (Ord. passed 7-16-79) (Ord. Amend. Passed 12-20-2022)

§ 32.36 ADJACENT OWNER RESPONSIBILITY

(a) No property owner shall allow a tree, or other plant growing on his or her property to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If an obstruction persists, the Public Works Director shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice, the Town may undertake the necessary work and charge the cost to the property owner.

('81 Code, § 14-42) (Ord. passed 7-16-79) (Ord. Amend. Passed 12-20-2022)

§ 32.37 CERTAIN TREES DECLARED A NUISANCE

(a) Any tree, or limb thereof, on private property determined by the Public Works Director to have contracted a lethal, communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the free passage of pedestrians or vehicles; or that threatens

- public health, safety, and welfare is declared a nuisance and the Town may require its treatment or removal.
- (b) Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property. The Town may remove such trees at the owner's expense if the owner does not comply with treatment and/or removal as specified by the Public Works Director within the written notification period.

('81 Code, § 14-43) (Ord. passed 7-16-79) (Ord. Amend. Passed 12-20-2022)

§ 32.38 VIOLATIONS AND PENALTY

Any person, firm or corporation violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each offense.

('81 Code, § 14-44) (Ord. passed 7-16-79) (Ord. Amend. Passed 12-20-2022)

§ 32.39 APPEALS

Appeals to decisions by the Public Works Director or to penalties imposed after violations of this ordinance, shall be heard by the Town Manager.

('81 Code, § 14-45) (Ord. passed 7-16-79) (Ord. Amend. Passed 12-20-2022)

§ 32.40 SAVINGS AND REPEAL

All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

('81 Code, § 14-46) (Ord. passed 7-16-79) (Ord. Amend. Passed 12-20-2022)

§ 32.41 SEVERABILITY

Should any word, sentence, clause, paragraph, or provision of this Ordinance be held to be invalid or unconstitutional the remaining provisions of this Ordinance shall remain in full force and effect.

('81 Code, § 14-47) (Ord. passed 7-16-79) (Ord. Amend. Passed 12-20-2022)

PLANNING BOARD

§ 32.50 ESTABLISHMENT.

There shall be a Town Planning Board for the Town of Franklinton, North Carolina, and its extraterritorial jurisdiction, established under the authority of the G.S. Ch. 160A, Article 19. (Ord. passed 8-26-85)

Statutory reference: Local planning and regulation of development, see G.S. §160A-360 et seq.

§ 32.51 MEMBERSHIP, TERMS AND VACANCIES.

- (A) The Planning Board shall consist of five members, three of whom shall be citizens living within the corporate limits of the Town, and two of whom shall be citizens living within the Town's extraterritorial jurisdiction. The in-town members shall be appointed by the Board of Commissioners of the Town. The extraterritorial members shall be appointed by the Franklin County Board of Commissioners from the recommendation of the Board of Commissioners, in accordance with G.S. §160A-362.
 - (B) Initial terms shall be as follows:
 - (1) In-Town members.
 - (a) One member shall be appointed for a term of one year.
 - (b) Two members shall be appointed for terms of two years.
- (2) Extraterritorial jurisdiction members. Two members shall be appointed for terms of three years.
- (C) Their successors shall be appointed for terms of three years. Terms shall expire on June 30. Members shall serve until the expiration of their terms or until their successors have been appointed.
- (D) Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term by the Board of Commissioners of the Town for in-town members, and by the Franklin County Board of Commissioners for extraterritorial members.
- (E) Faithful attendance at the meetings of the Planning Board is considered a prerequisite for the maintenance of membership on the Board. Unexcused absence from three consecutive meetings shall be deemed adequate reason for termination of membership on the Planning Board by the legislative body. (Ord. passed 8-26-85)

§ 32.52 ORGANIZATION, RULES, MEETINGS AND RECORDS.

The Planning Board shall elect a Chairperson and may create and fill such other offices as it may deem necessary. The term of officers shall be one year or until successors shall have been elected and installed, with eligibility for reelection. Vacancies in officers' positions prior to expiration of terms shall be filled for the period of unexpired term by the Planning Board. The Board shall adopt rules for transaction of its business and shall keep a record of its members'

attendance and its resolutions, discussions, findings, and recommendations, which record shall be a public record.

The Board shall hold at least one meeting monthly unless there is no business to be discussed or acted upon, and all of its meetings shall be in accordance with G.S. Chapter 143, Article 33C. A quorum shall consist of three members for the purpose of taking any official action required by this chapter. All members of the Board shall have voting power on all matters of business. However, any member who is a party of interest to matters under consideration by the Board shall declare such interest prior to a vote of the Board on the question, and shall abstain from voting on the question. This provision shall not prohibit such members from participation in discussions of the Board on such matters prior to a vote. (Ord. passed 8-26-85)

§ 32.53 COMPENSATION.

All members of the Planning Board shall serve as such without compensation. Members or employees of the Planning Board, when authorized by the Planning Board, may attend planning conferences or meetings of planning institutes or hearings upon pending planning legislation; an the Planning Board may, by formal and affirmative vote, pay the reasonable traveling expenses incidental to such attendance, within the Planning Board's budget and with the concurrence of the Board of Commissioners of the Town. (Ord. passed 8-26-85)

§ 32.54 POWERS AND DUTIES.

- (A) It shall be the function and duty of the Planning Board to make comprehensive surveys and studies of existing conditions and probable future developments and prepare such plans for physical, social and economic development as will best promote the public health, safety, morals, conveniences or the general welfare as well as efficiency and economy in the development of the Town. The Planning Board shall have powers and duties given it by the General Statues of North Carolina and the Board of Commissioners of the Town, including the power to:
 - (1) Make studies of the area within its jurisdiction and surrounding areas;
 - (2) Determine objectives to be sought in the development of the study area;
 - (3) Prepare and adopt plans for achieving objectives;
- (4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
- (5) Advise the governing body concerning the use and amendment of means for carrying out plans;
- (6) Exercise any functions in the administration and enforcement of various means for carrying out plans that the Board of Commissioners of the Town may direct

- (7) Perform any other related duties that the Board of Commissioners of the Town may direct;
- (8) Accept, receive, and disburse in furtherance of its function any funds, grants, and services made available by the federal government and its agencies, the state government and its agencies, any local government and its agencies and any private and civic sources, with concurrence of the Board of Commissioners of the Town; the Planning Board, with concurrence of the Board of Commissioners of the Town, may carry out contracts with the state and federal government or any agencies thereof under which financial or other planning assistance is made available to the municipality and may agree to and comply with any reasonable conditions that are imposed upon such assistance;
- (9) Carry out contracts, with the concurrence of the Board of Commissioners of the Town, with any other city, county, or regional council or planning agency under which technical planning assistance is furnished; and, with said concurrence of the Board of Commissioners of the Town, carry out contracts with any other city, county, or regional planning agency under which it agrees to pay the other local government or planning agency for technical planning assistance;
- (10) Conduct such public hearings as may be required to gather information necessary for the drafting, establishment, and maintenance of a development plan for the Town;
- (11) Promote public interest in and an understanding of its recommendations, and to that end, it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may deem necessary.
- (B) The Planning Board shall have no power to incur any debt or obligation of the Town nor shall it have any power to make any expenditure of funds of the Town, unless such funds are specially provided for in the budget of the Town and appropriation made for such purposes by the Board of Commissioners of the Town, or unless the incurring of such other obligation is otherwise approved by the Board of Commissioners of the Town. (Ord. passed 8-26-85)

§ 32.55 ANNUAL REPORT AND BUDGET REQUEST.

The Planning Board shall annually submit to the Board of Commissioners of the Town a written report of its activities, an analysis of the expenditures to date for the current fiscal year, and it's requested budget of funds needed for operation during the ensuing fiscal year. The Planning Board is authorized to appoint such committees and to authorize such expenditures within its approved budget as it may see fit, subject to limitations of the fund provided for the Planning Board by the Board of Commissioners of the Town. (Ord. passed 8-26-85)

CHAPTER 33: FINANCE AND TAXATION

Section

General Provisions

33.01	Fiscal Year
33.02	Designation of Depository
33.03	Cash Management Policy
33.04	Excess Loose Change Prohibited
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Taxation

33.15	Tax Ordinances Not Affected by Code
33.16	Appraisal and Assessment of Property
33.17	Due Date; Interest for Nonpayment of Taxes; Discounts for Prepayment
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Disposition of Property

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GENERAL PROVISIONS

§ 33.01 FISCAL YEAR.

The fiscal year for the Town shall commence on July 1 and end on June 30 each and every year. ('81 Code, § 2-1)

§ 33.02 DESIGNATION OF DEPOSITORY.

The Board of Commissioners shall have the authority to designate official depositories where funds of the Town are to be deposited. ('81 Code, § 2-2)

§ 33.03 CASH MANAGEMENT POLICY.

- (A) The Board of Commissioners hereby charges the Finance Officer, with the cooperation of all Town departments and officials, to devise and implement a cash management plan which addresses cash receipts, cash mobilization and management of available resources (investments), cash disbursements, banking relations, and monitoring and reporting on the plan. The cash management plan was implemented September 1, 1985, but no formal resolution was made to adopt this plan on that date.
- (B) The independent Auditor of the Town shall monitor the Town's compliance with the established cash management plan and the reports of the Finance Officer thereon. He shall report his findings and recommendations annually to the Board as a part of the Town audit.
- (C) The following procedures are hereby established and shall be incorporated in the cash receipts section of the cash management plan:
- (1) Except as otherwise provided by law, all taxes and other monies collected or received by an officer or employee of the Town shall be deposited in an official depository in accordance with G.S. § 159-32.
- (2) Monies received shall be deposited daily in the form and amounts received, except as otherwise provided by statute. These monies shall be deposited in a manner so as to receive the current day's credit.
- (3) Monies due to the Town either by another governmental agency or by an individual shall be promptly billed, collected or deposited. The Finance Officer shall monitor the status of all uncollected monies owed to the Town and implement measures to collect any and all delinquent accounts except as otherwise provided by law. (Ord. passed 10-20-86)

§ 33.04 EXCESS LOOSE CHANGE PROHIBITED.

Employees of the Town may refuse to accept payment or tender of payment if made by loose or uncounted and unrolled coins if it appears to the Town employee that the payment contains:

- (A) Fifty or more pennies;
- (B) Forty or more nickels;
- (C) Fifty or more dimes;
- (D) Forty or more quarters; or
- (E) If the total combination of loose coins exceeds \$5. (Ord. passed 4-13-87)

§ 33.05 INSURANCE; GOVERNMENTAL IMMUNITY.

- (A) The Board of Commissioners may authorize the Town Manager, on behalf of the Town, to contract with one or more insurance companies authorized to do business in the State to protect the Town and Town Officers, employees and agents while acting in the line of duty, against losses arising from public liability, fire, theft, hail, windstorm and other causes, the amount and terms of policies to be as prescribed by the Board of Commissioners and agreed upon by the insurers.
- (B) Nothing in this section shall be construed as a waiver by the Town of its governmental immunity beyond the extent of the amount and type of any insurance coverage obtained by the city pursuant to subsection (A) of this section and which is in effect at the time of any claim.

Statutory Reference: Waiver of immunity through insurance purchase, G.S. 160A-485.

TAXATION

§ 33.15 TAX ORDINANCES NOT AFFECTED BY CODE.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance levying or imposing any tax of any nature 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 Code. ('81 Code, § 15-1)

Statutory reference: Authority to omit designated classes of ordinances from Code, see G.S. § 160A-77

§ 33.16 APPRAISAL AND ASSESSMENT OF PROPERTY.

For the property it is entitled to tax, the Town shall accept and adopt the appraisals and assessments fixed by the authorities of Franklin County as modified by the State Property Tax Commission under the provisions of the Machinery Act (G.S. § 105-271 et seq.). However, the requirement of this section shall not be construed to modify the appraisal and assessment authority given Towns with respect to discovered property by G.S. § 105-312. ('81 Code, § 15-2). *Statutory reference:* Similar provisions, see G.S. § 105-327

§ 33.17 DUE DATE; INTEREST FOR NONPAYMENT OF TAXES; DISCOUNTS FOR PREPAYMENT.

- (A) All taxes levied by the Town under the provisions of the Machinery Act (G.S. § 105-271 et seq.) shall be due and payable on the first day of September of the fiscal year for which the taxes are levied. If paid:
- (1) On or after the due date and before the sixth day of January thereafter, taxes shall be paid at par or face amount.
- (2) On or after the sixth day of January following the due date and before the first day of February thereafter, there shall be added to the taxes interest at the rate of 2%.
- (3) On or after the first day of February following the due date, there shall be added to the taxes, in addition to the 2% provided in division (A) (2) of this section, interest at the rate of three-fourths of 1% per month or fraction thereof until the taxes plus penalties and interest have been paid.
- (B) Under the conditions established by this section, the Board of Commissioners shall have authority to establish a schedule of discounts to be applied to taxes prior to the due date prescribed in division (A) of this section. To exercise this authority, the Board shall:
- (1) Not later than the first day of May preceding the due date of the taxes to which it first applies, adopt a resolution or ordinance specifying the amounts of the discounts and the periods of time during which they are to be applied.
- (2) Submit the resolution or ordinance to the Department of Revenue for approval.
- (3) Upon approval by the Department of Revenue, publish the discount schedule at least once in a newspaper having general circulation in the Town.
- (C) For the purpose of computing discounts and interest, tax payments submitted by mail shall be deemed to be received as of the date shown on the postmark affixed by the United States Postal Service. If no date is shown on the postmark or if the postmark is not affixed by the

United States Postal Service, the tax payment shall be deemed to be received when the payment is received in the office of the Town Clerk. In any dispute arising under this division, the burden of proof shall be on the taxpayer to show that the payment was timely made. ('81 Code, § 15-3) **Statutory reference:** Similar provisions, see G.S. § 105-360

§ 33.18 PARTIAL PAYMENTS.

The Town Clerk is hereby authorized, empowered and directed to accept partial payments on taxes of not less than 25% of the total amount of taxes due by any taxpayer; provided, that the time for paying the installments shall not be extended beyond the time not provided by law for the advertisement and sale of property for taxes; provided further, that no installment payment or payments shall operate as a discharge of the tax lien until the principal amount of the taxes plus penalties, interest and costs allowed by law shall have been paid in full. ('81 Code, § 15-4)

Statutory reference: Partial payment of taxes, see G.S. § 105-358; charge of lien on real property, see G.S. § 105-362

§ 33.19 RELEASE OF SEPARATE PARCELS FROM TAX LIEN.

- (A) When the lien of taxes of any taxing unit for any year attaches to two or more parcels or real property owned by the same taxpayer, the line may be discharged as to any parcel at any time prior to advertisement of tax foreclosure sale in accordance with either division (A) (1) or (2) below:
- (1) Upon payment, by or on behalf of the listing taxpayer, of the taxes for the year on the parcel or parcels to be released, plus all personal property taxes owed by the listing taxpayer for the same year.
- (2) Upon payment, by or on behalf of any person (other than the listing taxpayer) who has a legal interest in the parcel or parcels to be released, of the taxes for the year on the parcel or parcels to be released, plus a proportionate part of the personal property taxes owned by the listing taxpayer for the same year. The proportionate part shall be a percentage of the personal property taxes equal to the percentage of the total assessed valuation of the taxpayer's real property in the taxing unit represented by the assessed valuation of the parcel or parcels to be listed.
- (B) When real property listed as one parcel is divided, a part thereof may be released as provided in division (A) (1) of this section, after the assessed valuation of the part to be released has been determined and certified to the Town Clerk by the Tax Supervisor.
- (C) It shall be the duty of the Town Clerk accepting a payment made under this section for the purpose of releasing the tax lien from less than all of the taxpayer's real property:

- (1) To give the person making the payment a receipt setting forth a description of the real property releasing from the tax lien and bearing a statement that the property is being released from the tax lien.
- (2) To indicate on the tax receipts, tax records and other official records of his office what real property has been released from the tax lien.
- (3) If the Town Clerk fails to issue the receipt or make the record entries required by this division, the omission may be supplied at any time.
- (D) When any parcel of real property has been released under the provisions of this section from the lien of taxes of any taxing unit for any year, the property shall not thereafter be subject to the lien of any other regularly levied taxes of the Town for the same year, whether the other taxes are levied against the listing owner of the property or against some other person acquiring title thereto. No tax foreclosure judgment for other taxes shall become a lien on the released property, and, upon appropriate request and satisfactory proof of the release by any interested person, the Clerk of the Superior Court shall indicate on the judgment docket that the judgment is not a lien on the released property. However, failure to make the entry shall not have the effect of making the judgment a lien on the released property. ('81 Code, § 15-5)

Statutory reference: Similar provisions, see G.S. § 105-362

§ 33.20 APPLICATION TO PROPERTY SOLD FOR TAXES.

The rules stated in §§ 33.18 and 33.19 shall apply in cases where property has been sold for taxes and the Town is the holder of the certificate of sale; provided, no suit has been instituted to foreclose the certificate; provided further, that the first applicant for a release in accordance with the provisions of § 33.19 shall pay the cost of advertising, selling and issuing of certificate of sale. ('81 Code, § 15-6)

§ 33.21 TOWN CLERK TO CONDUCT SALE.

The Town Clerk is hereby designated or commissioned to sell all property, real or personal of the tax liens thereon, to satisfy any tax lien, penalties or forfeiture, as is provided under the state laws. ('81 Code, § 15-7)

Statutory reference: Sale of tax liens on real property for failure to pay taxes, see G.S. § 105-369

DISPOSITION OF PROPERTY

§ 33.30 AUTHORITY TO DISPOSE OF SURPLUS PROPERTY.

The Town Manager is hereby authorized to dispose of any surplus personal property owned by the city, whenever he determines, in his discretion, that:

- (A) The item or group of items has a fair market value of less than \$5,000.00;
- (B) The property is no longer necessary for the conduct of public business; and
- (C) Sound property management principles and financial considerations indicate that the interests of the Town would best be served by disposing of the property.

§ 33.31 METHODS OF DISPOSAL.

The Town Manager may dispose of any such surplus personal property by any means which he judges reasonably calculated to yield the highest attainable sale price in money or other consideration, including but not limited to the methods of sale provided in the general statutes. Such sale may be public or private, and with or without notice and minimum waiting period.

§ 33.32 SALE, RETENTION OR DISPOSAL OF PROPERTY.

The surplus property shall be sold to the party who tenders the highest offer, or exchanged for any property or services useful to the Town if greater value may be obtained in that manner, and the Town Manager is hereby authorized to execute and deliver any applicable title documents. If no offers are received within a reasonable time, the Town Manager may retain the property, obtain any reasonably available salvage value, or cause it to be disposed of as waste material. No surplus property may be donated to any individual or organization except by resolution of the Board of Commissioners.

§ 33.33 RECORDS.

The Town Manager shall keep a record of all property sold under authority of this article and that record shall generally describe the property sold or exchanged, to whom it was sold, or with whom exchanged, and the amount of money or other consideration received for each sale or exchange.

CHAPTER 34: POLICE DEPARTMENT

Section

34.01	Organization
34.02	General Duties of Chief
34.03	Filling Vacancies in Police Department
34.04	Appointment of Extra Police Officers
34.05	Duties of Police Officers
34.06	Furnishing Information and Aid
34.07	Chief to Assign Duties
34.14	Mutual Aid Authorization

POLICE DEPARTMENT

§ 34.01 ORGANIZATION.

The Police Department shall consist of a Chief and as many more police officers as the Mayor and Board of Commissioners shall from time to time determine. ('81 Code, § 12-1) **Statutory reference:** Authority of Town to appoint Chief of Police and other police officers, see G.S. § 160A-281

§ 34.02 GENERAL DUTIES OF CHIEF.

It shall be the duty of the Chief of Police to:

- (A) Attend all meetings of the Board.
- (B) Supervise the Police Department, in cooperation with the Town Manager.
- (C) Preserve the peace by suppression of all disturbances and apprehension of all law-breakers.
 - (D) Cooperate with the Fire Department in the protection of property during fires.
 - (E) Assist the Street Department Supervisor in traffic control.
- (F) Carry out further duties as may be assigned to him. ('81 Code, § 12-3)

§ 34.03 FILLING VACANCIES IN POLICE DEPARTMENT.

Should a vacancy in the Police Department occur, for any reason, it shall be the duty of the Chief of Police to receive all applications for employment as police officers or in any other capacity, to interview each applicant and to employ police officers or other members of his Department as the good government of the Town may require, and his actions may be reviewed and approved or disapproved by the Town Manager. ('81 Code, § 12-4) (Ord. passed 1-4-60)

§ 34.04 APPOINTMENT OF EXTRA POLICE OFFICERS.

The Chief of Police shall have power, to appoint an auxiliary force to work along with the regular force. The extra police officers shall have all the powers of the regular police force. ('81 Code, § 12-5) (Ord. passed 1-4-60) **Statutory reference:** Workers' compensation for auxiliary law-enforcement personnel, see G.S. § 160A-282

§ 34.05 DUTIES OF POLICE OFFICERS.

It shall be the duty of the police officers to:

- (A) Preserve public peace, prevent crimes, detect and arrest law-breakers and suppress riots and unlawful gatherings which obstruct the free passage of public streets, sidewalks, parks and public places.
 - (B) Protect the rights of persons and property.
 - (C) Guard the public health.
 - (D) Preserve order at elections and all public meetings and assemblages.
- (E) Regulate movement of vehicles in the streets, bridges, parks, public squares and highways.
 - (F) Provide proper police attendance at emergencies.
- (G) Carefully observe and inspect all places of public amusement, all places of business having a license to carry on the business and suppress and restrain all unlawful and disorderly conduct or practices therein.
 - (H) Enforce and preserve the laws and ordinances in effect in the Town.
 - (I) Arrest all persons guilty of violating any law or ordinance.
 - (J) Prevent as far as possible any injury to property.
 - (K) Report to the Chief of Police any repairs needed to any public property.
 - (L) Serves all processes issued to them.
- (M) Perform any and all other duties that may be assigned to them by the Chief of Police. ('81 Code, § 12-7)

Statutory reference: Powers and duties of police officers, see G.S. § 160A-285

§ 34.06 FURNISHING INFORMATION AND AID.

Every police officer shall furnish information and render aid to all persons, when requested, as is consistent with his duty. ('81 Code, § 12-8)

§ 34.07 CHIEF TO ASSIGN DUTIES.

The Chief of Police, subject to the Town Manager, shall have charge of the police force and as such shall assign duties to the police officers as he thinks best for the good order of the Town. He shall be responsible to the Town Manager in seeing that the police officers faithfully perform their duties. ('81 Code, § 12-9)

§ 34.14 MUTUAL AID AUTHORIZATION.

- (A) The Chief of Police is hereby authorized to enter mutual assistance agreements with other law enforcement agencies in accordance with reasonable arrangements, terms and conditions as may be agreed upon between the respective heads of the law enforcement agencies. Must be approved by the Board of Commissioners.
- (B) The Chief of Police is hereby authorized to permit officers of the Franklinton Police Department to work temporarily with officers of the requesting agency, including in an undercover capacity; and the Chief of Police may lend resources to requesting agencies as he deems advisable.
- (1) All requests and authorizations shall be in accordance with G.S. §§ 160A-288 and 90-95.2.
- (C) While working with a requesting agency, an officer shall have the same jurisdiction, powers, rights, privileges and immunities (including those relating to the defenses of civil actions and payment of judgments) as the officers of the requesting agency in addition to those he normally possesses.
- (D) While on duty with the requesting agency, an officer shall be subject to the lawful operational commands of his superior officers in the requesting agency, but he shall for personnel and administrative purposes, remain under the control of his own agency, including for purposes of pay. An officer shall furthermore be entitled to workers' compensation and the same benefits to the extent as though he were functioning within the normal scope of his duties. (Ord. passed 8-21-90)

TITLE V: STREET DEPARTMENT

Chapter

- 50. GARBAGE AND REFUSE
- 51. RESERVED
- **52. CEMETERIES**
- 53. STREETS AND SIDEWALKS

CHAPTER 50: GARBAGE AND REFUSE

Section

50.01	Town to collect and remove garbage
50.02	Container requirements
50.03	Dangerous waste
50.04	Rubbish prohibited on streets, sidewalks
50.05	Construction refuse
50.06	Curbside yard waste collection
50.07	Curbside Trash, Recycling and White Goods Collection
50.08	Removal of Dead Animals
50.09	Burning or Burying Regulations.

§ 50.01 TOWN TO COLLECT AND REMOVE GARBAGE.

The Town or its designated contractor shall collect and remove all garbage and waste in the Town from residential dwellings, commercial establishments and industries on a weekly basis. No other person shall be permitted to collect and remove garbage and waste commercially or for a fee, unless approved in advance by the Board of Commissioners.

It shall be unlawful for any person or business to permit garbage or refuse to pile up, accumulate, be stored or remain on any premises longer than is reasonably necessary to remove and deposit same in approved containers as required herein.

Periodic garbage and refuse collection fees shall be assessed to each separate residential and/or business premise within the Town according to fees established by the trash service provider contracted by the Town. ('81 Code, §13-1) Penalty, see §10.99 **Statutory reference:** Municipal authority to regulate trash and garbage, G.S. §160A-303.1

§ 50.02 CONTAINER REQUIREMENTS.

The occupant of every building, premises or where garbage does or may exist, shall be provided with an approved garbage container by the designated contractor selected by the Town in which all garbage will be deposited for the premises.

All containers shall be kept in a reasonably clean condition by the user. ('81 Code, §13-2) (Am. Ord. passed 6-15-04) Penalty, see §10.99

§ 50.03 DANGEROUS WASTE.

- (A) Highly flammable or explosive materials shall not be placed in containers for regular collection but shall be disposed of as directed by the Town at the expense of the owner or possessor thereof.
- (B) Special waste such as chemical, radioactive or other waste which would require extraordinary handling and disposal methods shall not be collected by the Town but by the methods designated by the Franklin County Health Department. ('81 Code, §13-3) Penalty, see §10.99

§ 50.04 RUBBISH PROHIBITED ON STREETS, SIDEWALKS.

It shall be unlawful for any person to place in or on any street, sidewalk, alley, or public highway any rubbish, dirt or filth of any kind, or any vegetables, fruit peels, tin cans or any other substance or refuse matter of any kind whatsoever, which would render the street unclean, except in the approved garbage container by the designated contractor as set forth above. ('81 Code, §13-7) Penalty, see §10.99

§ 50.05 CONSTRUCTION REFUSE.

Removal of materials such as lumber, bricks, plaster, loam and other substances accumulated as a result of repairs to existing buildings or construction of new buildings is the responsibility of the property owner. ('81 Code, §13-8) Penalty, see §10.99

§ 50.06 CURBSIDE YARD WASTE COLLECTION.

- (A) This section pertains to the curbside collection of yard waste in the Town of Franklinton. Identified yard wastes include leaves, grass clippings, pine straw, or other natural items which are not in conflict with division (A) of this section. Additional clarification in relation to this chapter can also be obtained from Town Personnel.
 - (B) Yard waste curbside collection rules and regulations.
- (1) All limbs must be cut into lengths no longer than eight (8) feet long and no larger than four (4) inches in diameter. Yard waste piles must be neatly stacked next to curbside to ensure collection.
- (2) All leaf and pine straw piles must be kept free from sticks, limbs, rocks, etc. so as not to cause injury to Town employees or damage Town equipment.
- (3) Absolutely no type of yard waste to be collected by the Town shall be placed in the ditch or gutter for collection. All yard debris shall be placed in the edge of the yard from the residence it originated from.
- (4) Each Franklinton resident is allowed one truckload of "unchipped" yard waste materials per collection by the Town. An "unchipped" load of yard waste is considered to be twelve (12) feet long by four (4) feet tall by six (6) feet wide. All yard waste deposited at the curbside for collection by the Town will be collected each collection cycle. Franklinton residents will be charged a fee to be determined and amended from time to time by the Board of Commissioners for all "unchipped" loads in excess of their first "unchipped" load for each collection cycle. If a Franklinton resident hires a contractor for maintenance, landscaping or in case of an emergency, it is the responsibility of the contractor or resident to dispose of any accumulated waste and/or landscaping materials in a timely manner.
- (5) The Town collects yard waste on a continuously rotating schedule so no definitive pick-up schedule is available. Penalty, see §10.99.

§ 50.07 CURBSIDE TRASH, RECYCLING AND WHITE GOODS COLLECTION.

(A) Household garbage shall be placed in trash bags and deposited in a Town provided cart and must be stored within the container at all times. Garbage located outside the container will not be collected. Additional containers will be made available for an additional charge to be determined by the trash contractor.

- (B) Customers will be provided a container for recycling and will be collected on a biweekly basis. Materials for recycling collection shall be placed un-bagged in the designated container.
- (C) Refuse and recycling to be collected by the Solid Waste Services Contractor shall be placed at the street of the property from which it was generated no earlier than 6:00pm on the evening before the scheduled refuse collection day. Empty containers must be removed from the curb, or roadway by 8:00am the morning after the scheduled refuse collection day.
- (D) Containers shall be placed at least five (5) feet away from any obstruction including (mailboxes, transformers, parked cars and light poles) and shall not be placed near low hanging branches or power lines.
- (E) Any person who places refuse or refuse/recycling containers upon a public street or in the public right-of-way before the time designated in this Code or leaves refuse or refuse/recycling containers in a public street or in the public right-of-way beyond the time allowed in this Code shall be in violation of the provisions of this Code and shall be subject to a fifty dollar (\$50.00) civil penalty. Each 24-hour period in which a violation occurs is a separate offense for which a separate civil penalty applies. Any violation of this subsection shall be deemed a non-criminal violation and shall not be a misdemeanor or infraction pursuant to G.S. 14-4. The Code Enforcement Officer or his designees may enforce the provisions of this section.
- (F) White goods are defined as residential appliances limited to washing machines, clothes dryers, stoves, ranges, ovens, refrigerators, freezers, dishwashers and water heaters. The Town collects white goods by appointment only on the last working Friday of the month. Customers must contact Town Hall two (2) days before scheduled collection. Appliance doors must be removed prior to placement at curbside.

§ 50.08 REMOVAL OF DEAD ANIMALS.

Dead animals will be removed from any public right-of-way premises upon notice to the Street Department Supervisor of the existence of the dead animals.

§50.09 BURNING OR BURYING REGULATIONS.

It shall be unlawful to burn or set fire to or bury any garbage, solid waste, or refuse for the purpose of disposal. The Town offers residential yard waste pick-up service, no burning of leaves, branches, or yard waste is allowed.

CHAPTER 52: CEMETERIES

Section

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§ 52.01 DUTIES OF STREET DEPARTMENT SUPERVISOR.

The Street Department Supervisor shall have control over all Town cemeteries, in cooperation with the Town Manager. He shall supervise the digging of all graves and all interments and disinterments in the cemeteries.

The Town Clerk along with the Street Department Supervisor and staff shall also keep adequate records of the sale of cemetery grave spaces and the ownership thereof and records of all interments and disinterments in Town cemeteries. He shall see that all regulations are complied with. His actions may be reviewed and approved or disapproved by the Town Manager.

('81 Code, §6-1)

§ 52.02 MAP.

The Town Clerk shall keep a map of each Town cemetery showing thereon all burial plots or squares which are offered for sale, together with those sold, indicating the exact location of each. ('81 Code, §6-2)

§ 52.03 USE AS THOROUGHFARE PROHIBITED.

It shall be unlawful for any person to walk or drive any vehicle other than a licensed vehicle or to ride on a horse or other animal through the cemetery. No vehicle shall enter the cemetery except through the main entrances provided thereof. No vehicle of any kind or animal shall be driven on or over any plot or walkway. The use of all Town cemeteries as a dog park or means to walk or exercise an animal is prohibited. This excludes ceremonial funerals utilizing a horse drawn carriage or service animals.

('81 Code, §6-3) Amended 2006 Penalty, see §10.99

§ 52.04 SPEED LIMITS FOR VEHICLES.

The rate of speed of any motor vehicle in cemeteries shall not exceed five miles per hour. ('81 Code, §6-4) Penalty, see §10.99

Statutory reference: Authority of Town to regulate the speed of motor vehicles, see G.S. §20-141

§ 52.05 SALE OF LOTS FOR INTERMENT ONLY.

All sales of lots, portions of lots or single graves in the Town cemetery shall be for the purpose of interment only. ('81 Code, §6-5) Penalty, see §10.99

§ 52.06 PURCHASE OF LOTS.

Persons desiring to purchase lots in the Town cemeteries must apply to the Town Clerk, whose duty it shall be to have the lots laid off and require immediate cash payment for the lots at prices fixed by the Board. In the event an individual wishes to dispose of a lot, it has to be turned in to the Town Clerk, who will pay the owner the price he or she originally paid for the Lot(s). All deeds to be marked: "Not to be Resold by Individual to Another Individual; Must be Reverted to the Town of Franklinton." ('81 Code, §6-6) (Am. Ord. passed 8-20-91)

Statutory reference: Authority of Town to impose a schedule of prices for cemetery lots, see G.S. §160A-348

§ 52.07 CERTIFICATES AND DEEDS TO LOTS.

On payment of the purchase price required, the Town Clerk shall issue a certificate to the purchaser of any lot specifying the lot and the price thereof, which certificate shall be entered by the Clerk in a book kept for that purpose. Any purchaser, upon presentation of his certificate to the Town Clerk, may obtain a deed for his lot upon completion and satisfaction of all conditions as set forth in this chapter. This deed shall be executed and attested by the Town Clerk. ('81 Code, §6-7)

Upon the death of the owner of a certificate of burial, all rights evidenced by such certificate shall pass to the owner's heirs, legatees, or devisees in the same manner as other interests in personal property. In addition, the Town will refund, without interest, any sums paid for plots that the owner of a certificate of burial no longer wishes to reserve, upon surrender of the certificate of burial covering those spaces. In order to receive the refund, the owner of a certificate of burial must provide the certificate for surrender.

§ 52.08 DEATH CERTIFICATE REQUIRED FOR BURIAL.

It shall be unlawful for any person to perform an internment without first securing a death certificate from a licensed physician. The certificate shall give the name and residence of the deceased, the name of the nearest relative and the time, place and cause of death. ('81 Code, §6-8) Penalty, see §10.99

§ 52.09 PLACE OF BURIALS.

It shall be unlawful for any person to bury, or cause to be buried, any human body in any place other than the Town cemeteries; provided that this section shall not apply to burial in family burial grounds by families already having such in the Town.

('81 Code, §6-9) Penalty, see §10.99

Statutory reference: Authority for section, see G.S. §160A-341

§ 52.10 DISTURBANCE OF PRIVATE BURIAL LOT PROHIBITED.

No person shall dig any grave, put any gravestone or board or make any erections or dig up any sod on any private burial lot, except under the direction or by consent of the owner thereof and through express permission by the Street Department Supervisor or Town Staff. ('81 Code, §6-10) Penalty, see §10.99

§ 52.11 PAUPER GRAVES.

The Street Department Supervisor shall set aside certain cemetery plots to be used as a paupers' burial site. The Town Manager shall determine the eligibility of any request for burial in the paupers' section. Only cremains shall be allowed in the designated paupers' area. ('81 Code, §6-11)

§ 52.12 DEPTH AND DIRECTION OF GRAVES.

- (A) All graves in the Town cemeteries shall be at least four (4) feet in depth and shall be sunk east and west.
- (B) All above ground crypts in the Town cemeteries shall be constructed of full-length pieces of granite or marble on all sides preferably six inches in thickness and not less than four inches in thickness, and shall be positioned east and west. The foundation of each crypt must be properly prepared using cement and gravel to support the weight of the complete structure.
- (C) All graves in the Town Cemeteries shall contain a vault and shall meet minimum construction material for vaults. Permissible materials are concrete, steel and polymer vaults. ('81 Code, §6-12)

§ 52.13 ONE INTERMENT IN GRAVE.

Only one interment shall be made in a grave, except a mother and infant, a father and infant, or two children, in one coffin. ('81 Code, §6-13)

§ 52.14 FENCES; CORNER MARKERS; DIVIDING BORDERS.

No fences or dividing borders shall be erected hereafter in any of the Town cemeteries. Corner markers to the satisfaction of the Street Department Supervisor will have to be installed by the purchaser of a lot within one month of the purchase of the lot. The corner markers will be installed so that they will be flush with the surface of the ground. The identification included on the corner markers shall be made available to the Street Department Supervisor, for

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documentation purposes, within the same one month installation period. No deed will be issued to the purchaser until all conditions are met.

('81 Code, §6-14) (Ord. passed 12-7-64; Am. Res. Passed 4-16-96)

Statutory reference: Authority of Town to regulate monuments, walls and fences in cemeteries, see G.S. §160A-348

§ 52.15 LEAVING CONSTRUCTION AND FUNERAL MATERIALS ON LOT.

No construction materials, excess dirt, or funeral accessories which include tents, chairs and other accessories shall be left on any lot in the Town cemeteries for a period of more than five (5) days. ('81 Code, §6-15)

§ 52.16 DISINTERMENTS.

No disinterment may take place in a Town cemetery except by a licensed funeral director or his employees pursuant to a valid or un-revoked permit for disinterment/re-internment issued by the Franklin County Health Department and under the supervision of the Street Department Supervisor, Town Clerk or other designated representative of the Town and upon written consent of the lot owner or nearest of kin. The Town shall be notified at least 36 to 48 hours in advance of any disinterment.

Marking of plots prior to opening for disinterment shall be accomplished to the specifications and in the presence of the Street Department Supervisor, Town Clerk or other designated Town representative.

All disinterred plots shall be restored to a condition level with surrounding areas. Any damage in the course of the disinterment shall be corrected and restored to the condition as was. Failure to comply will result in a penalty or fine in accordance with §10.99. ('81 Code, §6-16) Penalty, see §10.99

Statutory references: Authority of Town to regulate the opening of graves, see G.D. §160A-348 General procedure for removal of graves, see G.S. §65-13

§ 52.17 RESERVED.

§ 52.18 TRESPASSING ON LOTS.

All persons are forbidden to trespass upon private cemetery lots or to cut across the lots either private or belonging to the Town, except in case of burial. All persons walking in the Town cemeteries shall keep within the walks or driveways.

('81 Code, §6-18) Penalty, see §10.99

§ 52.19 DISTURBANCE OF FUNERALS.

It shall be unlawful for any person to disturb any funeral congregation in any cemetery. ('81 Code, §6-19) Penalty, see §10.99

§ 52.20 INJURY TO PROPERTY.

It shall be unlawful to:

- A) Damage, deface, destroy or injure any property in or belonging to the Town cemeteries.
- B) Throw, place, or put any refuse, garbage, trash or articles of similar nature in the Town cemeteries.
- C) Destroy, remove, break, overturn, or pollute any flower, plant, shrub, or ornament located in the Town cemeteries. ('81 Code, §6-20) Penalty, see §10.99

§ 52.21 TREES, SHRUBS, FLOWERS AND OTHER.

The placing of solar lights, boxes, shells, toys, metal designs, ornaments, chairs, glass cases, wood cases, balloons, banners, Christmas trees, upright and free standing floral arrangements except at the time of interment shall not be permitted and if so placed the Town reserves the right to remove and dispose of such articles. Memoriam can be placed on the tombstone or in approved containers. Approved containers shall mean vases made of all-weather material, concrete or marble.

All spring and summer flowers must be removed by October 1 and all fall and winter flowers must be removed by March 1. Holiday decorations and flowers are permitted on a temporary basis only and may be placed no sooner than seven days prior to a state or national holiday and must be removed within 10 days of the expiration of the holiday.

The Town reserves the right to remove at any time any tree, shrub, flower or plant growing on any lot in the Town cemeteries when, in the opinion of the Street Department Supervisor, the tree, shrub, flower or plant, or its roots, branches or any part thereof, is injurious or detrimental to any adjacent lot, grave, road, alley or walkway or renders access to any lot inconvenient. ('81 Code, §6-18)

No person may plant, cut, break, prune or remove any tree, shrub, flower, grass or other plant of any kind located in the Town cemeteries.

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The Town Clerk, Street Department Supervisor or their designee may remove from the cemetery all floral designs, flowers, weeds, or plants of any kind from the cemetery as soon as they deteriorate or otherwise become unsightly.

('81 Code, §6-21) Penalty, see §10.99 Ordinance passes 6-18-19

§ 52.22 EXCAVATING OR MOVING EARTH; PERMISSION.

No person shall excavate any earth, or remove the same from any part of the Town cemetery, except by consent of the owner and permission from the Street Department Supervisor.

All excessive dirt shall be removed by the funeral home in conduct with the individual burial. The Street Department Supervisor shall set aside an area for the disposition of excessive dirt and may grant permission for the deposit or removal of. ('81 Code, §6-22) Penalty, see §10.99

§ 52.23 REMOVING OR DEFACING GRAVE MARKERS.

No person shall willfully or unlawfully remove the stakes from a burial plot, or any board, gravestone or other monument which may have been erected at any grave, or shall deface, injure or destroy any such board, gravestone or other monument in any manner.

Should any monument or marker in the Town's cemeteries at any time become unsafe, unsightly, or in need of repair, or resetting, the Town Clerk shall notify the owner on the relevant certificate of burial rights of such condition and shall request such person to make any needed repairs.

Nothing in this section shall obligate the Town to place, replace, or repair any monument or marker in the Town's cemeteries. Exceptions will be handled on a case by case basis. ('81 Code, §6-23) Penalty, see §10.99

§ 52.24 ENTERING AT NIGHT.

It shall be unlawful for any person to enter the Town cemeteries at any time between sunset and sunrise for any purpose without a written consent from the Street Department Supervisor. ('81 Code, §6-24) Penalty, see §10.99

Statutory reference: Authority of Town to regulate the hours of opening and closing cemeteries, see G.S. §160A-348

§ 52.25 CEMETERY NOT TO BE USED AS PLAYGROUND.

It shall be unlawful for any person to use the Town cemeteries as a playground. ('81 Code, §6-25) Penalty, see §10.99

§ 52.26 DEPOSITING FILTH OR RUBBISH.

No person shall deposit or cause to be deposited any filth or unclean or offensive substances in the Town cemeteries. Ceremonies that include animals will be the responsibility of the owner to remove all feces immediately from the ground. ('81 Code, §6-26) Penalty, see §10.99

§ 52.27 DISCHARGING FIREARMS.

Except when authorized for military funerals, no person shall discharge firearms in the Town cemeteries at any time. ('81 Code, §6-27) Penalty, see §10.99

§ 52.28 INDIVIDUAL BURIAL SITES.

The Town Clerk and/or Street Department Supervisor shall set aside a block of cemetery plots to be sold as individual burial sites only. (Ord. passed 8-18-92)

§ 52.29 BURIAL PROCEDURES.

- (A) No plot may be opened and no burial may take place in a Town cemetery except by a licensed funeral director or his employees under the supervision of the Street Department Supervisor, Town Clerk or other designated representative of the Town. The Town shall be notified at least twenty four (24) hours in advance of any funeral for which a plot shall be opened.
- (B) Marking of plots prior to opening shall be accomplished according to the specifications and in the presence of the Town Clerk, Street Department Supervisor or other designated Town representative.
- (C) The licensed funeral director responsible for any burial in a Town cemetery shall be responsible for ensuring that plot(s) opened in connection with any funeral conducted by him/her are restored to the reasonable satisfaction of the Street Department Supervisor or other designated Town representative. If, within six months from the date of the funeral, a plot sinks below the level of the surrounding ground, becomes eroded, or has otherwise become unsightly due to the lack of proper restoration or stabilization, the Town shall so notify the responsible funeral director who shall ensure that appropriate corrective action is taken within ten (10) days following such notification.
- (1) If the funeral director fails to correct the problem within the period specified above following notification from the Town, the Town Clerk shall notify the funeral director in

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writing that the funeral director's privilege of conducting burials within any Town cemetery is suspended until the defective condition is remedied.

- (2) No funeral director may conduct any burial within any Town cemetery after receiving the notice specified in subsection (1) until the Town Clerk has been notified by the funeral director in writing that the defective condition has been remedied and the suspension is lifted.
- (3) Any suspension imposed under this section may be repealed to the Board of Commissioners. An appeal initiated by filing a written notice of appeal with the Town Manager. An appeal stays the suspension pending the outcome of the appeal.

§ 52.30 CREMAINS.

Cremains will be allowed in the Town cemeteries. No more than three (3) cremains are allowed in any individual burial space. The purchaser of a burial space(s) for cremains shall have the option of placing one monument over each cremains or one conventional monument for the entire burial space. Monuments over each cremains are restricted to four square feet. (Ord. passed 8-18-92)

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Chapter 53: STREETS AND SIDEWALKS

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- 53.72 Costs; Deposit or Bond

GENERAL PROVISIONS

§ 53.01 CERTAIN ORDINANCES RELATING TO STREETS NOT AFFECTED BY CODE.

Nothing in this code or the ordinance adopting this code shall affect any ordinance accepting, dedicating, vacating or otherwise relating to any specific street or providing for any street construction or improvement projects and assessments thereof, 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 code. ('81 Code, §14-1)

Statutory reference: Authority to omit designated classes or ordinances from Code, see G.S. §160A-77

§ 53.02 DUTIES OF STREET DEPARTMENT SUPERVISOR.

It shall be the duty of the Street Department Supervisor to:

- (A) Have full control of the work in and upon the streets, sidewalks and right-of-ways in the Town;
 - (B) Properly maintain and repair the streets, sidewalks and right-of-ways;
 - (C) Have full charge of all equipment of the Street Department;
- (D) Oversee all repairs to the streets, sidewalks and right-of-ways by all contractors and other agencies in the Town;
 - (E) Perform other duties as may be assigned to him. ('81 Code, §14-2)

§ 53.03 REMOVING BARRICADE.

No persons, other than an employee of the Town, shall remove, tear down or destroy any barricade which has been erected by the Town. ('81 Code, §14-3) Penalty, see §10.99 *Statutory reference:* Authority of Town to close streets or alleys permanently or temporarily, see G.S. §160A-296

§ 53.04 PERMITS FOR POLES LIMITED TO SINGLE LINES.

No permit shall be issued for the erection of poles on any street where there exists a line of poles on the street for the purpose of supporting electric, telephone or telegraph wires. ('81 Code, §14-4)

§ 53.05 SEPARATE LINES OR WIRES ON SAME POLES.

Whenever any electric, telephone or telegraph company shall desire to place lines or wires along any particular street upon which it does not have a line of poles, but upon which said street there exists a line of poles owned by another company, then the companies may maintain their wires upon the same poles. If an agreement cannot be reached between the companies owning the poles and the companies desiring to place wires thereon, then the companies may submit the question of compensation to three disinterested persons for arbitration or they may submit the same to the Board for determination. This section shall apply only to poles owned by the Town as well as poles owned by the companies operating under franchises from the Town. ('81 Code, §14-5)

§ 53.06 CARE AND INSPECTION OF POLES.

It shall be the duty of the owners of all poles supporting electric, telephone or telegraph wires to keep the same in a safe condition, and, for that purpose, to inspect the same once every three months. ('81 Code, §14-6) Penalty, see §10.99

§ 53.07 USE OF POLES AND UNDERGROUND CONDUITS FOR TOWN PURPOSES.

One duct in all underground conduit systems shall be provided for the Town, free of charge, for the Town police or fire alarm telegraph system when required, and the Town shall have the use of any and all poles on streets for the same purpose. ('81 Code, §14-7)

§ 53.08 BUSINESS PROPERTY BLOCKING STREET OR SIDEWALK.

It shall be unlawful for any person to place any article of any description on the street in front of his store or place of business.

It shall be unlawful for any person to place any article of any description on the sidewalk in front of his store or place of business, unless six (6) feet of clearance on the sidewalk is maintained for the passage of pedestrians as measured from the curb. ('81 Code, §14-8) Penalty, see §10.99 (Ord. Am. 05-20-2008)

§ 53.09 GATES OR DOORS OVER STREET OR SIDEWALK.

No gate or door shall be allowed to hang so that it will open over any street or sidewalk. ('81 Code, §14-9) Penalty, see §10.99

§ 53.10 AWNINGS OVER SIDEWALKS.

All awnings erected in the Town in front of stores, residences or other buildings shall be, at their lowest point, at least seven feet above the sidewalk, and no pillars or posts supporting the awnings shall be placed in the streets or sidewalks except by permission of the Board.

('81 Code, §14-10) Penalty, see §10.99

§ 53.11 PLAYING GAMES, THROWING MISSILES.

All games of every description, shooting bean shooters and throwing stones, shots or missiles on the streets and sidewalks of the Town are forbidden. ('81 Code, §14-11) Penalty, see §10.99

§ 53.12 DEPOSITING TRASH.

It shall be unlawful for any person to sweep onto, throw or cause to be thrown any garbage, broken glass, tin cans or trash of any kind onto the sidewalks, back lots or streets of the Town or to burn any trash in the streets. ('81 Code, §14-12) Penalty, see §10.99

§ 53.13 REMOVAL OF SNOW FROM SIDEWALKS.

Each occupant of a business or house in front of which the sidewalk is paved must clear off the snow from same within 24 hours after it has fallen. ('81 Code, §14-13) Penalty, see §10.99

§ 53.14 DAMAGING PAVEMENT AND SIDEWALKS.

No person shall willfully or wantonly injure any of the public bridges, pavements or sidewalks, and parks belonging to the Town. Parking on Town sidewalks is prohibited. ('81 Code, §14-19) Penalty, see §10.99

EXCAVATIONS

§ 53.30 PERMITS.

No person shall make any excavation, cut or other opening in any of the streets or sidewalks of the Town without first having obtained a permit from the Street Department Supervisor.

('81 Code §14-14) Penalty, see §10.99

§ 53.31 DETERMINATION OF FEES.

The fees for cutting streets or sidewalks shall be the actual cost of labor and material in replacement, to the satisfaction of the Street Department Supervisor. ('81 Code, §14-15)

§ 53.32 DISPOSITION OF FEES.

All fees collected for the purpose of opening or cutting of any street or sidewalk in the Town shall be paid into the general fund. ('81 code, §14-16)

§ 53.33 PROTECTION OF OPENINGS.

Any person excavating or opening any street or sidewalk within the Town shall protect the opening with a sufficient number of red flags during the daytime and red lights at night. ('81 Code, §14-17) Penalty, see §10.99

§ 53.34 FILLING.

All openings made in any street or sidewalk under the provisions contained in this subchapter shall, immediately upon the completion of the work, be filled in and the surface thereof made flush with the adjacent surfaces. Any hard surface, macadam or asphalt removed shall be replaced by the Town at the expense of the applicant granted permission to open the street or sidewalk. Each day the opening is left unfilled in violation of this section shall constitute a separate offense. ('81 code, §14-18) Penalty, see §10.99

HOUSE NUMBERS

§ 53.50 DUTY OF OWNER OR OCCUPANT.

The owner, or if he fails to do so, then the occupant of each house, place of business or part of the same in the Town, where the part is separately occupied, shall erect or post thereon, or upon the lot or premises on which the house, place of business or part is situated, in a conspicuous place near the entrance, not more than 40 feet from the street line, the official number of the house, place of business or part. ('81 Code, §14-20) Penalty, see §10.99

§ 53.51 SYSTEM OF NUMBERING.

For the purpose of house numbering, the numbering system established by the Board of Commissioners is hereby adopted and made the system of numbering in the Town. All members shall be assigned in accordance with the procedure of the system. ('81 Code, §14-21)

§ 53.52 ASSIGNMENT OF NUMBERS.

The Town Clerk shall assign all existing and new numbers under this subchapter. ('81 Code, §14-22)

§ 53.53 PERMANENT OR STANDARD NUMBERS.

The permanent number or standard number to be placed as required by this subchapter shall be not less than 2 ½ inches in height. ('81 Code, §14-23) Penalty, see §10.99

SPECIAL EVENTS

§ 53.70 AUTHORITY AND DUTIES OF THE TOWN MANAGER AND CHIEF OF POLICE.

When a special event such as carnivals, parades, festivals, fairs and other events is scheduled to be held in the corporate limits of the Town; prior approval must be expressly authorized and directed by the Town Manager. All applicants shall obtain a special events application from the Town Manager and submit for review no later than one week prior to the event.

The Chief of Police shall have the authority and duty to prohibit or restrict parking of vehicles along a highway or Town street or part thereof constituting a part of the route of the place or special event, at the point of assembly, or dispersal of a special event for a period of three hours before its commencement to one hour after its dispersal. The Chief of Police shall post signs to that effect and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. (Ord. passed 5-11-87) Penalty, see §10.99 (Ord. Am. 03-15-05)

§ 53.71 AUTOMOBILES IN VIOLATION MAY BE IMPOUNDED.

Any automobile left parked on either side of the street in the special event area unlawfully may be impounded and the owner may redeem and recover the same upon payment of the wrecker service for the impounding of the automobile. (Ord. passed 5-11-87) Penalty, see §10.99 (Ord. Am. 03-15-05)

§ 53.72 COSTS; DEPOSIT OR BOND.

The Town may charge the costs incurred by the Town, to any group or organization seeking more than one special event permit within a calendar year; the Town may require a deposit or bond for the costs before the issuance of a second or successive special event permit. (Ord. passed 5-11-87) (Ord. Am. 03-15-05)

TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS
- 71. TRAFFIC RULES
- 72. STANDING, STOPPING AND PARKING
- 73. TRAFFIC SCHEDULES
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CHAPTER 70: GENERAL PROVISIONS

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70.99	Penalty

GENERAL PROVISIONS

§ 70.01 CERTAIN ORDINANCES RELATING TO TRAFFIC NOT AFFECTED BY CODE.

Nothing in this code or the ordinance adopting this code shall affect any state law or local ordinance not codified herein regulating traffic on specific streets, 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 Code. ('81 Code, § 17-1)

§ 70.02 DEFINITIONS.

For the purpose of this Code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALLEY. A thoroughfare through the middle of a block.

AUTHORIZED EMERGENCY VEHICLE. Vehicles of the Fire Department, Police vehicles, Ambulances, and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the Chief of Police.

COMMERCIAL VEHICLE. Every vehicle designed, maintained or used primarily for the transportation of property.

EMERGENCY VEHICLES. Any vehicle that is designated and authorized to respond to an emergency. These vehicles are usually operated by designated agencies, often part of the government, but also run by charities, non-governmental organizations and some commercial companies. Often emergency vehicles are permitted by law to break conventional road rules in order to reach their destinations in the fastest possible time, such as (but not limited to) driving through an intersection when the traffic light is red, or exceeding the speed limit.

OFFICIAL TRAFFIC-CONTROL DEVICES

§ 70.35 OBEDIENCE.

The driver of any vehicle shall obey the directions of any official traffic-control device placed in accordance with the traffic code and other traffic ordinances of the Town, subject to certain exceptions which are granted the driver of any authorized emergency vehicle, unless otherwise directed by a police officer. ('81 Code, § 17-56) Penalty, see § 70.99

§ 70.36 WHEN SIGNS REQUIRED.

No provision of this chapter that provides for signs shall be enforced against an alleged violator if, at the time and place of the alleged violation, the official sign is not in proper

position or is insufficiently legible to an ordinary person. Whenever a particular section of the traffic code does not stipulate signs, that section shall be effective without signs being placed to give notice thereof. ('81 Code, § 17-57)

§ 70.37 NO-TURN SIGNS AND TURNING MARKERS.

Whenever authorized signs are placed which indicate that no "right" or "left" or "U" turn is permitted, the driver of a vehicle shall obey the directions of any such sign, and when authorized markers, buttons or other indications are placed within an intersection which the course to be traveled by vehicles traversing, or turning, the driver of a vehicle shall obey the directions of such indications. ('81 Code, § 17-58) Penalty, see § 70.99

Statutory reference: Authority of Town to regulate turning at intersections, see G.S. § 20-153(c)

§ 70.38 RESTRICTED AND NO PARKING ZONES.

Whenever authorized signs or markings are placed which indicates restricted or no parking for any reason, the driver of a vehicle shall obey the regulatory indications. Fire lane and Handicap violations shall carry a penalty of \$100. ('81 Code, § 17-59) Penalty, see § 70.99

§ 70.39 ZONE OF QUIET.

Whenever authorized signs are placed which indicate a zone of quiet, the person operating a motor vehicle within any such zone shall not sound the horn or any other warning of the vehicle, except in an emergency. ('81 Code, § 17-60) Penalty, see § 70.99

§ 70.40 PLAY STREET.

The Mayor is hereby to declare when authorized signs are placed which prescribe any street, or part thereof, as a play street. No person shall drive a vehicle upon any such prescribed street, except persons who have business, or who reside within, such prescribed area; any such person shall exercise the greatest care when driving upon any such play street. ('81 Code, § 17-61) Penalty, see § 70.99

§ 70.41 FLASHING SIGNALS.

Whenever flashing red or yellow signals are used they shall require obedience by vehicular traffic, as follows:

(A) Flashing Red. When a flashing red light has been erected or installed at an intersection, approaching vehicles facing the red light shall stop and yield the right-of-way to vehicles in or approaching the intersection. The right to proceed shall be subject to the rules applicable to making a stop at a 4-way stop. When a flashing red light has been erected or installed at a place other than an intersection, approaching vehicles facing the light shall stop and yield the right-of-way to pedestrians or other vehicles.

(B) Flashing Yellow. When a flashing yellow light has been erected or installed at an intersection, approaching vehicles facing the yellow light may proceed through the intersection with caution, yielding the right-of-way to vehicles in or approaching the intersection. When a flashing yellow light has been erected or installed at a place other than an intersection, approaching vehicles facing the light may proceed with caution, yielding the right-of-way to pedestrians and other vehicles. ('81 Code, § 17-63) Penalty, see § 70.99

Statutory reference: Vehicle control signals, see G.S. § 20-158

OBEDIENCE TO TRAFFIC REGULATIONS AND POLICE OFFICERS

§ 70.60 OBEDIENCE TO TRAFFIC CODE.

It is an infraction for any person to do any act forbidden, or fail to perform any act required, in this traffic code. ('81 Code, § 17-36) Penalty, see § 70.99

§ 70.61 AUTHORITY OF POLICE IN SPECIAL CASES.

In the event of a fire or other emergency or when it is necessary to expedite traffic or to safeguard pedestrians, police officers may direct traffic as conditions may require, notwithstanding the provisions of the traffic code. ('81 Code, § 17-37) Penalty, see § 70.99

§ 70.62 PUBLIC EMPLOYEES TO OBEY TRAFFIC REGULATIONS.

The provisions of the traffic code shall apply to the driver of any vehicle owned by, or used in the service of, the United States Government, this State, County or Town and it shall be unlawful for any such driver to violate any of the provisions of the traffic code or the state statutes. ('81 Code, § 17-38) Penalty, see § 70.99

Statutory reference: Similar provisions, see G.S. § 20-168

§ 70.63 EXEMPTIONS TO AUTHORIZED EMERGENCY VEHICLES.

The provisions of the traffic code regulating the operation, parking and standing of vehicles shall also apply to authorized emergency vehicles, as defined in this subchapter, except as follows:

- (A) Unless otherwise directed by police officer, a driver when operating such vehicle in an emergency may:
 - (1) Park or stand, notwithstanding the provisions of this title.
- (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation and activate emergency equipment.

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- (3) Exceed the *prima facie* speed limits so long as he does not endanger life or property and abides by applicable Town policies.
- (4) Disregard regulations governing direction of movement or turning in specified directions, so long as the driver does not endanger life or property.
- (B) The foregoing exemptions shall not, however, protect the driver of any vehicle from the consequences of his reckless disregard for the safety of others. ('81 Code, § 17-40) Penalty, see § 70.99

§ 70.64 PERSONS PROPELLING PUSHCARTS; RIDING BICYCLES OR ANIMALS.

Every person propelling any pushcart, riding any self-propelled or motorized device, or an animal upon a roadway to include any person controlling an animal-drawn vehicle, shall be subject to the provisions of the traffic code which are applicable to any driver of any vehicle, except those provisions of the traffic code which by their very nature, can have no application. ('81 Code, § 17-40) Penalty, see § 70.99

Statutory reference: Similar provisions, see § G.S. 20-171

§ 70.99 PENALTY.

Any person who shall violate any provision of this title or any traffic ordinance of the Town regulating the operation or parking of vehicles for which no other penalty is set forth shall be responsible for an infraction and shall be required to pay a penalty of not more than \$50 per infraction.

Statutory reference: (G.S. § 14-4b), Town Code Penalty §10.99

CHAPTER 71: TRAFFIC RULES

Section

71.01	Limitations on Turning Around
71.02	Illegal Starting
71.03	Muffler Required
71.04	Muffler Cut-outs Prohibited
71.05	General Speed Limit
71.06	House-moving
71.07	Use of Skates, Coasters, Bicycles and the Like
71.08	Driving Prohibited during School Hours
71.09	Commercial Trucks in the City Limits
71.10	Regulations for All-Terrain Vehicles, Golf Carts, and Dirt Bikes
71.11	Speed Limits
71.12	Reduced Speed Zones

Cross-reference:

Traffic regulated on certain streets, see Ch.73

71.13 Enforcement & Appeals

§ 71.01 LIMITATIONS ON TURNING AROUND.

No driver of a vehicle shall turn the vehicle and proceed in the opposite direction within the business district (U-Turn). ('81 Code, § 17-112) Penalty, see § 70.99

§ 71.02 ILLEGAL STARTING.

No person shall upon a public street, highway, road, alley, drive or other public way, or upon the grounds and premises of any service station, drive-in theater, store, restaurant or other business establishment providing parking or loading and unloading automobile space for customers, patrons or the public; operate a motor vehicle from a standing or parked position by rapid acceleration and/or other mechanical means of operation so as to cause the wheels of the vehicle to spin in place prior to and/or during the initial forward movement from a standing or parking position to travel at a rate of speed greater than is reasonable and necessary for the normal operation of the vehicle according to accepted standard practice for vehicle operation; or at a rate of speed or in such manner that will endanger or is likely to endanger person or property, or in a heedless manner willfully disregarding the rights of others and without due caution. These methods of vehicle operation are sometimes referred to as "scratching off." ('81 Code, § 17-117) (Ord. Passed 12-6-63) Penalty, see § 70.99

§ 71.03 MUFFLER REQUIRED.

No person shall operate a motor vehicle on or off a street in the Town unless the motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, annoying smoke and smoke screens. ('81 Code, § 17-118) (Ord. Passed 5-10-77) Penalty, see § 70.99

§ 71.04 MUFFLER CUT-OUTS PROHIBITED.

It shall be unlawful for any person to use a "muffler cut-out" on any motor vehicle. ('81 Code, § 17-119) (Ord. Passed 5-10-77) Penalty, see § 70.99

§ 71.05 GENERAL SPEED LIMIT.

The speed limit on the streets and highways of the Town shall be as established by State law under G.S. § 20-141, except as set forth in Chapter 73 unless otherwise posted. ('81 Code, § 17-123) (Ord. Passed 10-12-65)

Cross-reference: Speed limit in cemeteries, see § 92.04

§ 71.06 HOUSE-MOVING.

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Any person desiring to move any dwelling or structure over the Town streets shall first obtain permission to do so from the Town Manager, Street Department Supervisor and the Code Enforcement Officer and after the permission is granted, shall pay a fee to be set and amended from time to time by the Town Board of Commissioners, and in addition thereto, shall pay any damage done to the street or Town property. ('81 Code, § 17-128) Penalty, see § 70.99 *Cross-reference:* Buildings and building regulations, see Ch. 150

Statutory reference: Authority of Town to keep streets open for travel and free from unnecessary obstructions, see G.S. § 160A-296

§ 71.07 USE OF SKATES, COASTERS, BICYCLES AND THE LIKE.

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by this chapter applicable to the driver of a vehicle, except as to special regulations in this title and except as to those provisions of laws and ordinances which by their nature can have no application.

No person upon skates, coasters, bicycles or similar device shall ride upon any sidewalk within the Town except upon streets set aside as play streets or sidewalks in a residential district. ('81 Code, § 17-131) Penalty, see § 70.99

§ 71.08 DRIVING PROHIBITED DURING SCHOOL HOURS.

No vehicle shall be driven on South Hillsborough Street from South Main Street west to the round-a-bout and on North Hillsborough Street from Mason Street to Vine Street during school hours. ('81 Code, § 17-127) Penalty, see § 70.99

Cross-reference: Parking prohibited during school hours, see § 72.09

§ 71.09 COMMERCIAL TRUCKS IN THE CITY LIMITS.

- (A) No through commercial trucks allowed on Town streets except for loading and unloading of cargo or other materials. (Am. Ord. passed 1-17-23)
- (B) The term "through commercial truck" shall mean any truck having three or more axles towing a trailer or a dump truck hauling material which passes through the city without stopping for the purpose of either collecting or discharging cargo or for the purpose of either collecting or discharging cargo or material of the purpose of either collecting or discharging passengers.

(Ord. Passed 7-20-04; Am. Ord. passed 1-17-23)

(C) No motor vehicle operated within the Town limits shall utilize an engine retarding system to aid in the braking process of the vehicle, which causes loud noise uncharacteristic of the normal operating sound of said motor vehicle. (Jake Braking)

Statutory reference: Similar provisions, see G.S. § 160A-300

(D) A violation of the provisions of this ordinance shall subject the offender to the penalty(s) described in § 70.99 PENALTY (Am. Ord. passed 1-17-23)

§ 71.10 REGULATIONS FOR ALL-TERRAIN VEHICLES, GOLF CARTS, AND DIRT BIKES.

(A) Purpose

The purpose of this ordinance is to promote public safety and protect public infrastructure by regulating the operation of all-terrain vehicles (ATVs), golf carts, and dirt bikes within the Town of Franklinton, North Carolina. This ordinance is enacted in accordance with North Carolina General Statutes (NCGS) § 20-171.19 and § 20-4.01. In the event of any conflict between this ordinance and state law, state law shall prevail.

(B) Definitions

For the purposes of this ordinance, the following definitions apply:

All-Terrain Vehicles (ATV): As defined in NCGS § 20-4.01 (1c), an ATV is a motorized off-highway vehicle designed to travel on three or four low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control.

Dirt Bike: A two-wheeled motorized vehicle designed for off-road use, not equipped or registered for highway use.

Golf Cart: A golf cart is a motorized vehicle originally designed and manufactured for operation on a golf course for sporting or recreational purposes. It is not primarily intended for use on public roads or highways and typically has a maximum speed of less than 20 miles per hour. Pursuant to N.C. General Statute § 20-4.01 (12a), a golf cart is not considered a motor vehicle unless modified to meet the requirements for street use. A street-legal golf cart, also referred to as a low-speed vehicle (LSV) when properly equipped, is a golf cart that meets all safety and operational requirements established by N.C. General Statute § 20-121.1 and federal regulations for operation on designated public streets.

(C) Prohibited Acts

- a. Operation on Public Property: No person shall operate an ATV or dirt bike on any town street, right-of-way, sidewalk, rail corridor, or rail right-of-way within the Town of Franklinton, except for the purpose of crossing from one side of a street to another as permitted by NCGS § 20-171.19 (e). Such crossing activity shall be made at an angle of approximately 90 degrees to the direction of the street and shall not exceed 100 feet along the public street or right-of-way.
- b. Operation on Private Property: Operation of ATVs, golf carts, and dirt bikes on private property within town limits is prohibited without the express consent of the property owner.

- c. Careless or Reckless Operation: No person shall operate an ATV, golf cart, or dirt bike in a careless or reckless manner so as to endanger or cause injury or damage to any person or property, in accordance with NCGS § 20-171.19 (d).
- d. Age Restrictions: Operators of ATVs and dirt bikes must adhere to the age restriction set forth in NCGS § 20-171.15. Specifically:
 - i. Children under the age of 8 are not permitted to operate an ATV or dirt bike.
 - ii. Children under the age of 16 are not permitted to operate an ATV in violation of the Age Restriction Warning Label affixed by the manufacturer as required by the applicable American National Standards Institute/Specialty Vehicle Institute of America (ANSI/SVIA) design standard.
 - iii. Operators under the age of 16 must be under the continuous visual supervision of a person at least 18 years of age while operating an ATV or dirt bike.
 - iv. Helmet and Eye Protection: All operators and passengers of ATVs and dirt bikes must wear a helmet and eye protection that meet the standards set forth in NCGS § 20-171.19 (a).
- e. Time of Operation: Operation of ATVs and dirt bikes is prohibited during the hours of darkness, from one-half hour after sunset to one-half hour before sunrise, and at any time when visibility is reduced due to insufficient light or atmospheric conditions, unless the vehicle is equipped with a lighted headlamp and taillamp, as required by NCGS § 20-171.19 (g).
- f. Prohibited on Town-owned Property: ATVs and dirt bikes are prohibited on all Town-owned property within the Town of Franklinton.

(D) Seizure of Vehicles

An ATV, golf cart, street-legal golf cart, or dirt bike may be seized by the Franklinton Police Department under the following conditions:

- a. If the driver is impaired by alcohol or drugs, as defined under North Carolina law.
- b. If the driver fails to cease operation of the ATV, golf cart, or dirt bike when directed to do so by a police officer or town official.
- c. If the ATV, golf cart, or dirt bike is identified as stolen property.

(E) Penalties

- a. Civil Penalty: A civil penalty in the amount of \$200 shall be levied against the operator or legal guardian of any ATV, golf cart, or dirt bike found to be in violation of this ordinance.
- b. Restitution for Damages: The operator of an ATV, golf cart, or dirt bike that causes damage to a town road, right-of-way, sidewalk, or any public infrastructure shall be responsible for the full cost of repairs to the damaged property.

(F) Enforcement

The Franklinton Police Department along with any other enforcement officials of the Town of Franklinton is authorized to enforce the provisions of this ordinance and to issue citations for violations.

(G) Severability

If any provision of this ordinance is found to be invalid or unenforceable by a court of competent jurisdiction, such findings shall not affect the validity of the remaining provisions, which shall remain in full force and effect.

(H) Specific Golf Cart Requirements

- a. Golf carts shall only be operated by an individual with a valid driver's license, per N.C. General Statute § 20-7(a).
- b. Golf cars shall not operate on sidewalks, greenways, or other non-vehicular paths, except where explicitly permitted by local ordinance or signage.
- c. All golf carts must obtain a golf cart pass annually from the Town of Franklinton.

The Town of Franklinton reserves the right to impose additional local restrictions or revoke authorization for operation in the interest of public safety. Violations of this provision may result in fines, citations, or vehicle impoundment as allowed by law.

§ 71.11 SPEED LIMITS.

- (A) Except as otherwise provided in this article or designated by sign, it shall be unlawful to operate a vehicle in excess of thirty-five (35) miles per hour inside the corporate limits.
- (B) Violation of this section shall be an infraction and shall be punishable as provided in G.S. 14-4.

§ 71.12 REDUCED SPEED ZONES.

- (A) When proper signs have been erected giving notice of speed limits which are other than the generally applicable thirty-five (35) miles per hour limit, it shall be unlawful to operate a vehicle in excess of such speeds.
- (B) The provisions of G.S. 14-4 are inapplicable to this subsection and all such violations of this amount as set forth in the adopted fee schedule.

§ 71.13 ENFORCEMENT & APPEALS.

A. ENFORCEMENT

All civil citations and /or civil penalties received in violation of the Code of Ordinances shall be presented to the Town of Franklinton at 101 North Main Street Franklinton, NC

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27525 during normal business hours for payment processing or may be paid by miling the citation and payment to the Town of Franklinton at 101 North Main Street Franklinton, NC 27525, within seven (7) days from the time of the offense, except when the time limit expires on a holiday or weekend, and then the time limit will be extended to the next working day. Unpaid civil citations and/or civil penalties may be collected through the filing of a civil action against the offender or through any other legally available collection method.

B. APPEALS

All civil citations and/or civil penalties may be appealed within seven (7) days of the date of issuance of the citation. Appeals shall be submitted to the Chief of Police in writing and must contain the basis for why the offender believes that the citation should be rescinded. The Chief of Police shall provide a written decision to the offender within ten (10) days of receipt of the appeal.

(Am. Ord. passed 8-20-2024)

CHAPTER 72: STANDING, STOPPING AND PARKING

Section

72.01	Obedience to Parking Signs and Markings
72.02	Manner of Parking
72.03	Parking within Lines
72.04	Double Parking
72.05	Vehicles not to Obstruct Passage of Other Vehicles
72.06	Vehicles backed up to Curb
72.07	Unlawful Parking
72.08	Vehicles Carrying Seafood

72.09 Parking Prohibited in Mall Area During School Hours

- 72.10 Parking with the Flow of Traffic72.11 Parking on Sidewalks
- 72.99 Penalty

§ 72.01 OBEDIENCE TO PARKING SIGNS AND MARKINGS.

Whenever signs, markers, painted curbs or other devices are in place giving notice that parking is prohibited, limited, restricted or otherwise regulated in a specific area or on a specific street, it shall be unlawful for any person to park any vehicle in violation of the directions given by the signs, markers or other devices. ('81 Code, § 17-76) Penalty, see § 70.99

§ 72.02 MANNER OF PARKING.

Except as otherwise authorized by law or by the Town, vehicles shall be parked parallel to the curb and not more than 12 inches there from. ('81 Code, § 17-77) Penalty, see § 70.99

§ 72.03 PARKING WITHIN LINES.

On any street which is marked off with lines indicating the parking space for vehicles, the vehicles shall be parked between the lines. ('81 Code, § 17-78) Penalty, see § 70.99

§ 72.04 DOUBLE PARKING.

No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer or traffic-control device, on the roadway side of any vehicle stopped, standing or parked at the edge or curb of a street. ('81 Code, § 17-79) Penalty, see § 70.99

§ 72.05 VEHICLES NOT TO OBSTRUCT PASSAGE OF OTHER VEHICLES.

- (A) No vehicle shall be stopped or parked on any street so as to interrupt or interfere with the passage of public conveyances or other vehicles.
- (B) The provisions of this section shall not apply to authorized emergency vehicles and service vehicles operated by authorized persons in the course of their normal duties. ('81 Code, § 17-80) Penalty, see § 70.99

§ 72.06 VEHICLES BACKED UP TO CURB.

In no case shall a vehicle be allowed to remain backed up to the curb, except when actually loading or unloading. ('81 Code, § 17-82) Penalty, see § 70.99

§ 72.07 UNLAWFUL PARKING.

(A) No person shall stop, stand or park a vehicle, except when necessary to avoid
conflict with other traffic or in compliance with law or the directions of a police officer or traffic
control device, in any of the following places:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within 15 feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within 25 feet of an intersection;
- (7) Within 30 feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway;
- (8) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless signs or markings indicate a different length;
 - (9) Within 50 feet of the nearest rail of a railroad crossing;
- (10) Within 25 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance (when properly signposted);
- (11) Alongside or opposite any street excavation or construction when stopping, standing, or parking would obstruct traffic;
- (12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
 - (14) At any place where official signs prohibit stopping;
 - (15) At any place with a curb painted yellow.
- (B) No person shall move a vehicle not lawfully under his or her control into any prohibited area or away from a curb any distance that is unlawful.

('81 Code, § 17-93) Penalty, see § 70.99

- (C) No person shall stand or park a vehicle upon any street for the principal purpose of:
- (1) Displaying it for sale;
- (2) Washing, greasing or repairing, excepting repairs necessitated by an emergency;
- (3) Storage;
- (4) Storage of any detached trailer or van when the towing unit has been disconnected;
- (5) Transferring merchandise or freight from one vehicle to another. ('81 Code, §17-93) Penalty, see §70.99
- (D) It shall be unlawful for any person to park or store a vehicle, trailer, equipment, machinery, storage pod, personal property, or dumpster upon the following roadways and right-of-ways within the Town of Franklinton except when permitted in writing by the Town (Penalty, see §70.99):
 - Ainsley Road
 - NC 56 (Green Street)
 - The portion of South Hillsborough Street between the West Mason Street and South Hillsborough Intersection and the South Hillsborough Street and NC 56 Intersection
 - The east side of North Sterling Street starting at a point 163 feet north of East Mason Street to a point 315 feet north of East Mason Street.

(Ord. Am. passed 11-19-2024)

(E) Parking, storing, or operating a vehicle, machinery, dumpster, personal property, or piece of equipment that results in damage to a Town roadway, sidewalk, stormwater infrastructure, or right-of-way shall subject the offender in addition to the penalties prescribed in §70.99 to a fine in the amount of the actual cost of repairing the damage and restoring the roadway, sidewalk, stormwater infrastructure, or right-of-way to its pre-damage condition.

(Ord. Am. Approved 7-16-2024)

- (F) It shall be unlawful for any vehicle with greater than two axles to make a delivery on Main Street. All deliveries shall take place on Water Street, Front Street, Vine Street, or Mason Street within the Downtown District unless specifically authorized in writing by the Town. A violation of this section shall subject the offender to a civil penalty in the amount of \$100.
- (G) In the event that a vehicle is parked in the areas described in Section D of this ordinance or during Town run special events when a roadway must be cleared for the

safety of the public, the Town may have a vehicle towed at the expense of the owner of the vehicle.

(Ord. Am. passed 11-19-2024)

§ 72.08 VEHICLES CARRYING SEAFOOD.

It shall be unlawful for the operator of any motor truck or other vehicle carrying fish, oysters or other seafood to stop the vehicle upon any street of the Town without first having the vehicle equipped with the necessary cans or buckets to care for the drainage while in the Town. ('81 Code, § 17-130) Penalty, see § 70.99

§ 72.09 PARKING PROHIBITED IN MALL AREA DURING SCHOOL HOURS.

No vehicle shall be parked on Hillsborough Street, from Mason Street to Vine Street, during school hours.

('81 Code, § 17-127) Penalty, see § 72.99

Cross-reference: Driving prohibited in mall area, see § 71.09

§ 72.10 PARKING WITH THE FLOW OF TRAFFIC.

No vehicle shall be parked against the right of way that deviates from the flow of traffic within the Downtown areas.

(Ord. passed 4-19-22) Penalty, see § 72.99

§ 72.11 PARKING ON SIDEWALKS.

No vehicle shall be parked, both partially or completely, on sidewalks. (Ord. passed 4-19-22) Penalty, see § 72.99

§ 72.99 PENALTY.

Any person who violates any provision of this chapter for which no other penalty is otherwise provided shall be subject to the penalty as set forth in § 70.99.

CHAPTER 73: TRAFFIC SCHEDULES

Schedule

- I. One-way streets
- II. Speed limits

SCHEDULE I: ONE-WAY STREETS.

The following streets are one-way streets, as indicated by signs placed thereon by the Town:

STREET	LOCATION	ORD. NO.	DATE PASSED
Elm Street	East Green Street to East Mason Street	Res.	9-17-91
Front Street	South Main Street to East Mason Street	Res.	9-17-91
Person Street	Traffic permitted east-bound only	Res.	9-17-91
Vine Street	North Cheatham Street to North Hillsborough Street	Res.	9-17-91
Water Street	From NC 56 to South Main Street	2025.02.02	2-18-2025
Front Street	From South Main Street to East Mason Street	2025.02.02	2-18-2025
Front Street	From East Mason Street to Vine Street	2025.02.02	2-18-2025

(81' Code, §§ 17-113) Penalty, see § 70.99

SCHEDULE II: SPEED LIMITS.

- (A) The Board of Commissioners, after conducting an engineering and traffic investigation pursuant to authority granted in G.S. § 20-141, determines and declares the safe and reasonable speed limit on the portions of state highway system streets designated below in divisions (B) and (C) of this schedule.
- (B) The speed limit that is safe and reasonable on the following portions of Town streets shall be 20 miles per hour:

STREET	LOCATION	ORD. NO.	DATE PASSED
Main Street (US 1-A)	From Vine Street to Green Street (NC 56)	_	10-12-65
Front Street	From Main Street (US 1-A) to 2 nd intersection with Main Street	_	10-12-65

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Mason Street	From Railroad crossing to	_	10-12-65
(SR 1211)	Hillsborough Street		

('81 Code, §§ 17-120, 17-121, 17-122) Penalty, see §70.99

- (C) The speed limit for the following streets or sections of streets within the Town of Franklinton are hereby set as follows:
 - i. Water Street 15 miles per hour (MPH)
 - ii. Front Street 15 miles per hour (MPH)
 - iii. Vine Street (between the intersection of Vine Street & Front Street to the Vine Street & North Hillsborough Street Intersection) 15 miles per hour (MPH)
 - iv. West Mason Street (between the intersection of West Mason Street and Main Street to the West Mason Street and North Cheatham Street Intersection) – 15 miles per hour (MPH)
 - v. East Mason Street (between the intersection of East Mason Street and Main Street and Main Street to the East Mason Street and South Chavis Street Intersection) 15
- (D) The speed limit for all other Town streets shall be 25 miles per hour unless otherwise posted. Penalty, see §70.99

CHAPTER 76: RIGHT-OF-WAY CONSTRUCTION ACTIVITY

Section

76.01	Right-of-way	y Construction	Activity	Permit Re	quirement

- 76.02 Enforcement and Penalties
- 76.03 Authority to Require Additional Documentation

§ 76.01 RIGHT-OF-WAY CONSTRUCTION ACTIVITY PERMIT REQUIREMENT

(A) Permit Requirement

- 1. Any contractor, utility provider, builder, or other party proposing to conduct work within a Town-owned right-of-way shall be required to obtain a Town Right-of-Way Construction Activity Permit ("Permit") from the Town of Franklinton prior to commencing work.
- The Permit shall be required for activities including, but not limited to, work on stormwater systems, water lines, sewer lines, cable, fiber optic lines, electricity, natural gas, road expansion for subdivisions, grease traps, and any other related activities that result in a disturbance or change to the right-of-way.

(B) Work Standards and Timeliness

- 1. All work performed under this Permit must meet or exceed applicable industry standards and comply with NCDOT requirements and standards
- Work shall be conducted in a timely manner to prevent undue delay or obstruction to public access. Work deemed unsatisfactory by the Town shall be repaired at the expense of the permit holder and brought to a standard consistent with NCDOT regulations.
- 3. The Town may at its discretion require the installation of silt fencing or stormwater devices to prevent dirt and silt from running into the Town's stormwater systems or waterways.

(C) Restoration Requirements

- 1. Any asphalt patch, trench, sidewalk, or other excavated area that sinks, cracks, disintegrates, or otherwise fails within one (1) year of completion must be repaired by the permit holder at their expense.
- 2. If an excavated area fails, the permit holder shall complete repairs within thirty (30) days of notification by the Town. Failure to comply shall authorize the Town or its contractor to complete the repairs and invoice the permit holder for the actual cost.
- Pavement markings, including but not limited to crosswalks, center lines, parking spaces, and any other existing pavement markings, must be restored upon project completion.
- 4. Excavated areas along the side of the roadway must be stabilized immediately with straw and grass seed or sod upon project completion.
- Any excavated sidewalk must be repoured to an industry-accepted standard consistent with NCDOT requirements within fifteen (15) days of project completion.
- 6. Excavated asphalt areas must be repaved within fifteen (15) days of project completion, unless a time extension is granted by the Town due to adverse weather conditions.

(D) Inspection and Notification

- 1. All work must be inspected by a Town Staff member upon completion.
- 2. The permit holder must notify the Town Staff at least three (3) days prior to the start of work, on the day work commences, and on the day work is completed.

3. For multi-day projects, daily status updates must be provided to the Town via phone call, text message, or email.

(E) Traffic Control Measures

- 1. The permit holder shall provide all necessary traffic control measures, including flaggers, cones, barricades, warning signage, and any other measures required by industry standards and NCDOT regulations.
- (F) Landscaping and Other Infrastructure
 - 1. Any trees, flowers, plants, decorative features, or other landscaping elements removed, damaged, or disturbed must be replaced at the expense of the permit holder in coordination with Town Staff.
 - 2. Damage to any Town Street, right-of-way, sidewalk, street sign, or other Town-owned infrastructure shall require restoration to its original or better condition at the expense of the permit holder.
- (G) Emergency Work by Utility Providers
 - 1. Utility providers may perform emergency work within the Town right-of-way without obtaining a permit in advance, provided that they notify the Town of Franklinton immediately upon commencing emergency repair work.
 - 2. The utility provider must obtain a permit within twenty-four (24) hours of performing emergency work. If the emergency work occurs on a holiday or weekend, the permit must be obtained on the first business day following the emergency repair.

§ 76.02 ENFORCEMENT AND PENALTIES.

- (A) A violation of this ordinance shall result in a civil penalty of two hundred fifty dollars (\$250) for each day that work is conducted without a Permit.
- (B) A violation of this ordinance also occurs if any party, whether permitted or otherwise, causes damage to a Town street, right-of-way, sidewalk, street sign, landscaping, or other Town-owned or controlled features within the right-of-way.
- (C) A party receiving a civil penalty may appeal to the Town Manager, who may at their discretion waive, modify, or amend the penalty and prescribe any necessary remedial measures to resolve the matter.

§ 76.03 AUTHORITY TO REQUIRE ADDITIONAL DOCUMENTATION.

(A) Town Staff may, at their discretion,, require engineering plans, surveys, or supporting documentation for more complex projects before approving a Permit.

(Ord. Amend. Passed 3-18-2025)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ABANDONED AND NUISANCE MOTOR VEHICLES
- 91. ANIMALS
- 92. RESERVED
- 93. CIVIL PREPAREDNESS
- 94. FIRE PROTECTION
- 95. NOISE CONTROL
- 96. NUISANCES
- 97. RESERVED
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CHAPTER 90: ABANDONED AND NUISANCE MOTOR VEHICLES

Section

90.01	Purpose and Administration
90.02	Definitions
90.03	Abandoned Vehicle Unlawful – Removal authorized
90.04	Nuisance Vehicle Unlawful – Removal authorized
90.05	RESERVED
90.06	Removal; pre-towing notice requirements for Nuisance Vehicles
90.07	Removal; pre-towing notice requirements for Abandoned Vehicles
90.08	Notice requirement exceptions
90.09	Removal of vehicle from private property
90.10	Removal; post-towing notice
90.11	RESERVED
90.12	Redemption of vehicle during proceedings
90.13	Protection against criminal or civil liability
90.14	Exceptions
90.15	Removal of impounded vehicle
90.16	Administrative Fee

Statutory reference:

Removal, disposal of junked and abandoned motor vehicles, see N.C.G.S. §160A-303 Regulation of abandonment of junked motor vehicles, see N.C.G.S. §160A-303.2 Regulation of public health nuisances, see N.C.G.S. § 160A-193

§ 90.01 PURPOSE AND ADMINISTRATION.

PURPOSE

- (A) The Board of Commissioners of the Town of Franklinton is authorized by N.C.G.S. § 160A-193, N.C.G.S. §160A-303 and N.C.G.S. §160A-303.2 to regulate, restrain or prohibit Abandoned and Nuisance Vehicles as those terms are further defined in the provisions of this ordinance. This ordinance shall be enforceable within the Town limits of the Town of Franklinton, and within its Extra-Territorial Jurisdiction area.
- (B) Abandoned or nuisance vehicles constitute a hazard to health, safety and welfare of the citizens of the Town. Such vehicles can harbor noxious disease, provide shelter and breeding places for vermin and present physical dangers to the safety of children and other citizens. Such vehicles detract from community, neighborhood and area appearances, value of property, the character and integrity of the community, tourism and other economic development opportunities and the comfort, happiness and emotional stability of area residents. It is therefore the purpose of this ordinance to eliminate existing abandoned and nuisance vehicles and to prevent future proliferation thereof.

ADMINISTRATION

- (A) The Police Department and the Planning-Zoning Department of the Town shall be responsible for the administration and enforcement of this chapter as applicable. The Police Department shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways within the Town, and property owned by the Town.
- (B) The Planning-Zoning Department shall be responsible for administering the removal and disposition of "abandoned" and "nuisance" vehicles located on private property.
- (C) The Town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles and nuisance vehicles in compliance with this chapter and applicable state laws.
- (D) Nothing in this chapter shall be construed to limit the legal authority or powers of the Town in enforcing other laws or in otherwise carrying out its duties.

§ 90.02 DEFINITIONS.

The following words, terms and phrases, when used in the ordinance, shall have the meanings ascribed to them in this section:

ABANDONED VEHICLE. An Abandoned Vehicle is a vehicle that is:

- (A) Left upon a public street or highway in violation of a law or ordinance prohibiting parking and NC DMV registration is not current or valid; or
 - (B) Left on a public street or highway for longer than seven (7) days; or
- (C) Left on property owned or operated by the Town for longer than twenty-four (24) hours.

AUTHORIZING OFFICIAL. The supervisory employee of the Police Department or the Zoning-Planning Department respectively is designated to authorize the removal of vehicles under the provisions of this chapter.

NUISANCE VEHICLE. A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- (A) A breeding ground or harbor for mosquitoes or other insects or a breeding ground or harbor for rats or other pests; or
- (B) A point of heavy growth of weeds or other noxious vegetation over ten (10) inches in height; or
 - (C) A point of collection of pools or ponds of water; or
- (D) A point of concentration of combustible items such as gasoline, oil, other flammable or explosive materials including but not limited to boxes, paper, old clothes, rags, refuse, or any other combustible materials or objects of a like nature; or
- (E) One which has parts thereof which may fall and injure members of the public or one which may have parts which fall or be closed and become an area of confinement which may not be released for opening from the inside; or
- (F) One which is so situated and located that there is a danger of the vehicle falling, rolling, turning over, or creating an unsafe movement such as unattended, blocked or jacked vehicles; or
- (G) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind; or
- (H) One which has parts thereof which are jagged or contain sharp edges of metal or glass; or
- (I) All other vehicles specifically declared a health and safety hazard and a public nuisance by Board of Commissioners.

NON-CONSENSUAL TOWING. Non-consensual towing means vehicle towing performed by a tow truck if such transportation is performed without the consent or authorization of the registered owner or person in possession of the vehicle. This definition shall not include non-consensual tows that occur at the direction of a Police Officer or other Town Official or as a result of a vehicle seizure or repossession by a lienholder.

VEHICLE. A machine designed or intended to travel by self-propulsion or designed to travel while attached to any self-propelled vehicle; including but not limited to all boats and canoes.

§ 90.03 ABANDONED VEHICLE UNLAWFUL – REMOVAL AUTHORIZED.

It shall be unlawful for the registered owner or person in possession of a vehicle to cause or allow such vehicle to become an abandoned vehicle as that term is defined herein.

Upon investigation, proper officials of the Town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

§ 90.04 NUISANCE VEHICLE UNLAWFUL – REMOVAL AUTHORIZED.

It shall be unlawful for the registered owner and/or person in possession of a vehicle to cause or allow such vehicle to become a nuisance vehicle.

The Planning/Zoning Department, upon investigation, shall notify the registered owner and/or person in possession by registered mail of the violation of this ordinance requesting removal of subject nuisance vehicle.

Failure to comply with the request to remove a nuisance vehicle will result in the Planning/Zoning Department submitting an investigative report to the Board of Commissioners for a review of the matter. The Board of Commissioners may then concur that the vehicle is a nuisance and order it removed in accordance with the provisions set forth herein or decide to stay the action.

§ 90.05 RESERVED

§ 90.06 REMOVAL; PRE-TOWING NOTICE REQUIREMENTS FOR NUISANCE VEHICLES.

Except as set forth in §90.08, a vehicle to be towed or otherwise removed because it has been declared a nuisance vehicle as set forth in §90.04, shall be towed only after a notice has been sent to the registered owner and/or person in possession of the vehicle. The Police Department shall serve a notice by affixing on the windshield, or some other conspicuous place on the vehicle, indicating that the vehicle will be removed by the Town on a specified date, no sooner than seven days after the notice is affixed, unless the vehicle is moved by the registered owner and/or person in possession prior to such time. In addition, a towing notice shall be sent by the Planning/Zoning Department by registered mail to the registered owner and/or person in possession at the same

time the notice is affixed to the vehicle. The Planning/Zoning Department shall retain a written record to show the names and addresses to which such notice was mailed and the date mailed.

If the registered owner and/or person in possession of a nuisance vehicle does not remove the vehicle but chooses to appeal the declaration that the vehicle is a nuisance vehicle, such appeal shall be made to the Board of Commissioners in writing, heard at the next regularly scheduled meeting of the Board. Further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

§ 90.07 REMOVAL; PRE-TOWING NOTICE REQUIREMENTS FOR ABANDONED VEHICLES.

Except as set forth in §90.08, a vehicle to be towed or otherwise removed because it has been declared an abandoned vehicle as set forth in §90.03, shall be towed only after a notice is sent to the registered owner and/or person in possession of the vehicle. The Police Department shall serve a notice by affixing on the windshield, or some other conspicuous place on the vehicle, indicating that the vehicle will be removed by the Town on a specified date unless the vehicle is moved by the registered owner and/or person in possession prior to such time. In addition, a towing notice shall be sent by the Police Department by registered mail to the registered owner and/or person in possession at the same time the notice is affixed to the vehicle. The Police Department shall retain a written record to show the names and addresses to which such notice was mailed and the date mailed.

If the registered owner and/or person in possession of an abandoned vehicle does not remove the vehicle but chooses to appeal the declaration that the vehicle is an abandoned vehicle, such appeal shall be made to the Board of Commissioners in writing and heard at the next regularly scheduled meeting of the Board. Further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

§ 90.08 NOTICE REQUIREMENT EXCEPTIONS.

The requirement that a notice be affixed to an abandoned or nuisance vehicle at least seven days prior to removal may, as determined by the Authorizing Officer, shall be waived in circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare.

The Chief of Police or his designee shall determine that immediate removal of vehicles left on the public streets, highways, or other restricted areas is warranted when such vehicles are:

- (A) Obstructing traffic;
- (B) Parked in a no stopping or standing zone;
- (C) Parked in loading zones and/or fire zones;

- (D) Parked in bus zones;
- (E) Parked in violation of temporary parking restrictions; or
- (F) Other restricted areas.

Abandoned or nuisance vehicles left on Town-owned property other than on streets, highways and private property, may be removed without giving the minimum seven days' prior notice only in those circumstances where the Town Manager finds a special need for prompt action to protect and maintain the public health, safety, and welfare.

§ 90.09 REMOVAL OF VEHICLE FROM PRIVATE PROPERTY.

In no case will an abandoned or nuisance vehicle be removed by the Town from private property without written permission of the owner, occupant, or lessee except in those cases where a vehicle is declared a nuisance vehicle and has been ordered removed by the Board of Commissioners.

The Town may require any person requesting or agreeing to the voluntary removal of a vehicle from private property to indemnify the Town against any loss expense or liability incurred because of the removal storage or sale thereof.

§ 90.10 REMOVAL; POST-TOWING NOTICE

Any vehicle which has been determined to be an abandoned or nuisance vehicle may be removed to a storage garage or area by the tow truck operator or towing business contracted to perform such services for the Town. Whenever such a vehicle is removed, the Police Department or Planning/Zoning Department shall immediately notify the last known registered owner of the vehicle. The notice shall include:

- (A) Description of the removed vehicle including the VIN #;
- (B) Location where the vehicle is stored;
- (C) Procedure the owner must follow to request a probable cause hearing on the removal of such vehicle.

Notice of removal shall be in writing and shall include the information as set forth above. The notice shall be sent by registered mail to the registered owner within 24 hours of such removal.

Whenever a vehicle is removed and such vehicle has no valid registration or registration plate the Police Department shall make reasonable efforts including checking the vehicle's

identification number to determine the last known registered owner of the vehicle and to notify him/her of the information as set forth above.

§ 90.11 RESERVED.

§ 90.12 REDEMPTION OF VEHICLE DURING PROCEEDINGS.

At any stage in the proceedings, including before the probable cause hearing, the registered owner and/or person in possession may obtain possession of the removed vehicle by paying the towing fees owed to the private tow truck operator or towing business having custody of the removed vehicle. In no case, shall the registered owner and/or person in possession of the vehicle return the vehicle to any location in the Town limits or Extra Territorial Jurisdiction (ETJ) until receiving a favorable determination to his/her probable cause hearing as set forth above. In the event said vehicle is found in the Town limits or ETJ this vehicle will be towed immediately upon identification.

§ 90.13 PROTECTION AGAINST CRIMINAL OR CIVIL LIABILITY.

No person shall be held to answer to any criminal or civil action to any registered owner and/or person in possession of any abandoned or nuisance vehicle for disposing of such vehicle as provided in this ordinance.

§ 90.14 EXCEPTIONS.

Nothing in this ordinance shall apply to any vehicle:

- (A) In an enclosed building;
- (B) On the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or
- (C) In an appropriate storage place or depository maintained in a lawful place and manner by the Town.

§ 90.15 REMOVAL OF IMPOUNDED VEHICLE.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the Town any vehicle which has been impounded pursuant to the provisions of this ordinance, unless and until all towing and impound fees have been paid.

§ 90.16 ADMINISTRATIVE FEE.

Any registered owner and/or person in possession of a nuisance or abandoned vehicle as defined by this Ordinance that doesn't comply with the initial request to abate within 10 days and

CHAPTER 91: ANIMALS

Section

General Provisions

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91.02	Animals Prohibited in Town
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91.04	Fighting Prohibited
91.05	Responsibility of Owners
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91.14	Rabies Inoculation
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91.19	Interference with Impoundment Prohibited
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91.21	Keeping Bees
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91.99	Penalty

GENERAL PROVISIONS

§ 91.00 PURPOSE.

Pursuant to authority granted by the North Carolina General Assembly, this animal control chapter is enacted to regulate, restrict or prohibit, if necessary, animals; to protect the public from unvaccinated, diseased, stray, roaming, dangerous, wild or exotic animals; to make unlawful acts of animals that interfere with the enjoyment of property or the peace and safety of the community; to protect animals from abuse or conditions harmful to their well-being; and to carry out any other lawful duties authorized by North Carolina laws and applicable ordinances.

§ 91.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDON. Means to intentionally, knowingly, recklessly or negligently leave an animal at a location for more than 48 consecutive hours without providing for the animal's continued care.

ADEQUATE FEED. The provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such foodstuff shall be served in a sanitized receptacle, dish, or container.

ADEQUATE SHELTER. An enclosure sufficient to provide shelter from extremes of weather and means to remain dry and comfortable. Adequate shelter should consist of at least three solid sides, a roof and a floor with bedding. Such shelter shall have sufficient room for an animal to move about freely and lie down comfortably.

ADEQUATE WATER. The provision of, or ready access to, a supply of clean, fresh, potable water provided in a sanitary manner 24 hours a day.

ANIMAL. Every vertebrate nonhuman species of animal, wild or domestic, male or female, including, but not limited to, dogs, cats, livestock and other mammals, birds, reptiles, amphibians and fish.

ANIMAL CONTROL OFFICER. Persons charged by the Town with enforcing all sections of this chapter and applicable state laws.

ANIMAL UNDER RESTRAINT. Any animal confined within a vehicle; any animal confined, by means of a secure enclosure or an electronic enclosure, within the real property limits of its owner; or any animal secured by leash or lead, cage, bridle or similar physical restraint sufficient to allow the animal to be controlled. Electronic leashes or training collars do not constitute restraint.

AT LARGE. Any animal on any public street or other public place in the Town including public parks or on private property without the permission of the owner or occupant of the private property, and not under control by either leash, cord or chain, or not under the immediate and effective control of the owner or other responsible person.

BITE. The act of an animal seizing flesh with its teeth or jaws, so as to tear, pierce or injure the flesh.

CATS. Domestic felines.

DANGEROUS ANIMAL. Any animal whose behavior creates a reasonable risk of injury to a human or animal or damage to personal or real property. This behavior includes, but is not limited to, an animal's biting or attacking or attempting to bite or attack a human or other animal, provided however, this definition shall not apply to any animal that has been subject to provocation nor shall it apply to any animal responding to a trespass, as trespass is defined in this chapter, upon the animal owner's premises, if the victim is the trespasser.

DOG. Shall include both male and female domestic canines.

DOMESTIC ANIMAL. Those species of animals that normally and customarily share human habitat and are normally dependent on humans for food and shelter, such as, but not limited to cats, dogs, cattle, horses, swine, fowl, sheep and goats.

ELECTRONIC ENCLOSURE. Underground electrical wire which, when used in connection with a pet collar or other device, keeps cats or dogs confined within the limits of the wire on private property.

EXOTIC OR WILD ANIMAL. Any animal which is not usually and customarily kept as a pet or domestic animal. A hybrid of any such animal, regardless of genetic percentages, shall be deemed exotic or wild. Examples of exotic or wild animals include, but are not limited to, any animal for which a federal or state permit or license is required, and such animals as lions, tigers, wild cats, wolves, bears, apes, monkeys and raccoons. Also included in this definition are dangerous reptiles such as alligators and poisonous reptiles.

IMPOUNDMENT. Possession or seizure of an animal by an officer for placement in the animal control shelter or other appropriate facility.

IN ESTRUS. A female animal in what is commonly called "heat."

INOCULATION. The administration of rabies vaccine by a licensed veterinarian or by a certified rabies vaccinator.

KENNEL, DEALER, OR BREEDER. Any person, partnership or corporation engaged in buying, selling, breeding or boarding animals.

NIGHTTIME. The time of day from sunset until sunrise.

OFFICER. The Police Department and the designated Animal Control Officer is responsible for the enforcement of this chapter and shall be referred to as Officer throughout this chapter.

OWNER. Any person, group of persons, or an entity owning, keeping harboring, possessing or acting as keeper or custodian of an animal; and the head of the household shall be deemed to be the owner of any animal owned, kept or harbored by any person residing in the household and kept on the premises.

OWNER'S PROPERTY. Any real property owned or leased by the owner of the animal.

PROVOCATION. Does not include any actions on the part of an individual that pertain to reasonable efforts of self-defense, and provocation must be clearly established.

PUBLIC NUISANCE. Includes the following: habitually or repeatedly snapping at, biting or harassing pedestrians, bicycles or vehicles by animals; the tipping over of garbage pails; digging or rooting in gardens, flowers or vegetables by animals; or in the case of female animals, to allow running at large during estrus.

SECURE ENCLOSURE. An enclosure from which an animal cannot escape by means of digging under or jumping over the enclosure, or otherwise becoming free unless freed by the owner. Neither a motor vehicle nor an electronic enclosure shall constitute a secure enclosure.

TRESPASS. That the victim has wrongfully invaded the property of the owner. The reason the individual is on the property and any other relevant circumstances shall be considered in order to determine whether or not a trespass has occurred.

VICIOUS DOG. Any dog which has bitten one or more persons; and one in which a propensity to attack humans without provocation exists, and the propensity is known, or ought to be known, to the owner. ('81 Code, § 4-21)

§ 91.02 ANIMALS PROHIBITED IN TOWN.

No hogs, cattle, roosters, or other livestock shall be kept in the Town limits unless otherwise specifically stated differently in another chapter of this ordinance. ('81 Code, § 4-1) Penalty, see § 91.99

§ 91.03 ANIMALS NOT TO RUN AT LARGE.

Except as otherwise provided, it shall be unlawful for any person to allow any of his animals to run at large on any of the streets or public lots of the Town. ('81 Code, § 4-2) Penalty, see § 91.99 **Statutory reference:**

Authority of Town to prohibit domestic animals running at large, see G.S. § 160A-186

§ 91.04 FIGHTING PROHIBITED.

No person shall attend, encourage, or stage any animal or fowl fight.

('81 Code, § 4-3) Penalty, see § 91.99

Statutory reference:

Similar provisions, penalty, see G.S. § 14-362

§ 91.05 RESPONSIBILITY OF OWNERS.

Owners of animals are responsible for the acts of their animals. The owner of any animal which commits a nuisance upon the property of another person, or which damages another person's property or person, is fully responsible and accountable for the acts. ('81 Code, §4.4)

Owners of animals are responsible for defecation on streets and private property.

- (A) Public Property. It shall be unlawful for the owner of any animal to fail or refuse to remove feces deposited by the animal on any street, sidewalk, park or other publicly-owned area.
- (B) Private Property. It shall be unlawful for the owner of any animal to fail or refuse to remove feces deposited by the animal on any private property.

Cross-reference: Power of Board of Commissioners to prevent, suppress and remove nuisances, see Charter, § 9

Statutory references:

Abatement of public health nuisances, see G.S. § 160A-193 Abatement of nuisances generally, see G.S. § 19-1 et seq. Authority of town to define and abate nuisances, see G.S. § 160A-174

§ 91.06 DISPOSITION OF DEAD DOMESTICATED ANIMALS.

(A) It shall be the duty of the owner or person in charge of any of his domesticated animals that die from any cause and the owner, lessee, or person in charge of any land upon which any domesticated animals die, to bury the same to a depth of at least three (3) feet beneath the surface of the ground within 24 hours after knowledge of the death of the domesticated animals, or to otherwise dispose of the same in a manner approved by the State Veterinarian. It shall be a violation of this section to bury any dead domesticated animal closer than 300 feet to any flowing stream or public body of water. It shall be unlawful for any person to remove the carcasses of dead domesticated animals from his premises to the premises of any other person without the written permission of the person having charge of the premises and without burying the carcasses as above provided. The Street Department Supervisor shall provide for the removal and disposal according to the provisions of this section, or any dead domesticated animals located with the limits of the Town when the owner or owners of the animals cannot be determined. All costs incurred by the Town in the removal of a dead domesticated animal shall be recoverable from the owner of the animal upon admission of ownership or conviction.

(B) For the purpose of this section, *DOMESTICATED ANIMAL* shall include poultry. ('81 Code, § 4-5) Penalty, see § 91.99

§ 91.07 ANIMAL ABUSE PROHIBITED.

- (A) Prohibited acts. All animals shall be kept and treated under sanitary and humane conditions and it shall be unlawful for any person to engage in one or more of the following acts:
- (1) Failing to provide adequate feed, water and shelter or failing to maintain the animal in a clean and healthy environment. Examples of shelter that is not adequate include, but are not limited to the following:
- (a) Underneath houses, outdoor steps, decks or stoops, or underneath motor vehicles;
 - (b) Inside metal barrels or cardboard boxes;
- (c) Shelters prone to flood. Shelters surrounded by debris, obstructions or impediments that may endanger an animal. Confinement of the animal in storage rooms, sheds or other buildings without windows and proper ventilation.
- (2) Failing to keep an animal under sanitary and humane conditions which are not detrimental to the animal's health and general welfare and which maintain a condition of good order and cleanliness and reduce the possibility of transmission of disease.
- (3) Failing or refusing to provide adequate medical attention for any sick, diseased or injured animal.
- (4) Engaging in animal cruelty; animal cruelty means every act, omission, or act of neglect whereby unjustifiable pain, suffering or death is caused or permitted, or attempted to be caused or permitted against animals, and includes acts of attempted beating, torturing, injuring, tormenting, mutilating, teasing, molesting, baiting, or harassing animals, the trapping of animals unlawfully, and overworking or overdriving animals. This shall not include the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, lawful activities of organizations or agencies conducting or sponsoring biomedical research or training, lawful activities for sport, the production of livestock or poultry, or the lawful destruction of any animal.
- (5) Permitting any exhibit, function or activity where animals are being cruelly treated or animals run the risk of causing injury to the public or themselves. Officers shall have the authority to inspect and to close down public exhibits of animals including those which are part of fairs, carnivals, festivals, fund raising events, petting zoos and any other activity or function carried out in the Town if it is determined that animals are being cruelly treated or run the risk of causing injury to the public or themselves.
- (6) Poisoning, or exposing a domestic animal to any known poisonous substance or mixing a poisonous substance with food, so that it will likely be eaten by an animal. This does not

include attempts or acts of persons to lawfully rid their own property of mice or rats or other vermin, nor does it include other acts permitted by the North Carolina Wildlife Resource Commission.

- (7) Allowing a collar, rope or chain to become embedded in or cause injury to an animal's neck, or allowing a choke or pinch collar to be used as a primary collar on an unsupervised animal, or chaining or tethering an animal to a stationary object for a period of time or under conditions that an animal control officer deems harmful or potentially harmful to the animal. Examples of harmful or potentially harmful chaining or tethering include, but are not limited to the following:
- (a) Using a length or weight of a chain or tether that is not appropriate for the size, weight and age of the animal. A chain or tether should not be less than ten feet long. Using a chain or tether that exceeds ten percent of the animal's body weight shall be deemed not appropriate and potentially harmful.
- (b) Allowing an animal to be chained or tethered such that the animal is not confined to the owner's property or such that the chain or tether can become entangled and prevent the animal from moving about freely, lying down comfortably or having access to adequate food, water and shelter.
- (8) Carrying or causing to be carried in or upon the open area of a truck or other motor vehicle any animal that is not secured, in an animal carrier or by a harness or other device, such that the animal cannot fall, jump, or be thrown from the vehicle.
- (9) Placing or confining an animal or allowing an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger the health or well-being of such animal due to temperature, lack of food or drink, or such other conditions as may reasonably be expected to cause suffering, disability or death. If an animal is discovered in a motor vehicle under such conditions, the procedures specified in 4-134(d) should be followed.
- (10) It shall be unlawful for any person owning, possessing or harboring an animal to abandon that animal. If an Officer finds that an animal has been abandoned, the animal may be impounded. If the animal has been abandoned in a house or within a fenced area, the Officer must make a reasonable effort to locate the owner or manager of the property. If the property owner is not the animal owner, then the Officer shall secure permission to remove the animal from the person who occupies the property. If the person who occupies the property is the animal owner and cannot be located or refuses to give permission to remove the animal, the Officer shall secure an appropriate warrant to seize the animal.
- (B) Exceptions. Nothing in this section shall be deemed to prohibit the human transportation of horses, cattle, sheep, poultry or other livestock in trailers or other vehicles designed, constructed, and adequate for the size and number of animals being transported. Nothing in this section shall be construed to prohibit the Animal Control unit or Veterinarians from euthanizing dangerous, unwanted, injured or diseased animals in a humane manner; or to prohibit slaughterhouses or medical facilities from the proper, humane and lawful carrying out of their activities or duties.

(C) Inspections. Officers shall have the authority to conduct inspections of pet shops, kennels, dealers, or breeders, to the extent not preempted by North Carolina law, in order to determine if there is any abuse of animals. Pet shops, kennels, dealers and breeders are subject to the State laws concerning rabies control. Abuse of animals shall include any act described in this section or any other act which is detrimental to the well-being of the animal. It shall be unlawful for any owner or employee of any pet shop or kennel or any dealers or breeders to violate this section. **State Law References:** Cruelty to animals, G.S. 14-360.

§ 91.08 NOTIFICATION OF INJURY TO ANIMAL.

All persons who injure or kill a domestic animal by running over, into or otherwise coming into contact with such animal with an automobile, motorcycle, bicycle or other vehicle shall notify the owner of the animal immediately. If the owner is unknown or cannot be located, the person who injured or killed the animal shall immediately notify an Officer by giving their name and address, a description of the animal and the location of the incident.

§ 91.09 DANGEROUS ANIMALS.

- (A) Determination of dangerousness. The Officer shall determine whether an animal shall be declared dangerous or potentially dangerous pursuant to G.S. 67-4.1. The Officer shall issue a written declaration of dangerousness within ten working days of the incident necessitating a determination of whether the animal is dangerous or potentially dangerous.
- (B) Confinement and restraint. In addition to the provisions of G.S. 67-4.2, the owner of an animal that has been declared dangerous or potentially dangerous pursuant to G.S. 67-4.1 shall comply with the following provisions:
- (1) The animal shall be confined according to the specific written instructions, if any, of the Officer to the extent that these do not conflict with the confinement requirements of G.S. 67-4.2.
- (2) When an animal that has been declared dangerous or potentially dangerous is off the property of the owner it must be muzzled and under restraint by a competent person who by means of a leash, chain or rope has the animal firmly under control at all times. Voice command is not recognized as adequate restraint.
- (3) The owner shall notify an Officer immediately if the animal escapes or is otherwise freed from the secure enclosure or other restraint.
- (C) Transfer of ownership. The owner of an animal that has been declared dangerous or potentially dangerous shall comply with the requirements of G.S. 67-4.2 concerning transfer of ownership.
- (D) Sanctions, fines, penalties and remedies. In addition to criminal penalties provided by state law and civil penalties set forth in section §91.99, any person who violates this section shall be subject to the following sanctions, and remedies:

- (1) If an animal which has been declared dangerous or potentially dangerous is found at large, it shall be seized and impounded. Officers are authorized to go upon private property to seize the dangerous or potentially dangerous animal. If attempts to seize the dangerous or potentially dangerous animal are unsuccessful, Officers may tranquilize or humanely destroy the animal, without prior notice to the owner. The Officer(s) shall thereafter make a good faith attempt to notify the owner of the incident.
- (2) If the animal has caused injury to a person or another animal while at large and not confined within a secure enclosure, the Officer(s), in addition to seizing the animal, issue to the owner a notice of intent to destroy the animal. The owner may appeal this intended action by filing a written request for appeal with the Town Manager.
- (3) If an inspection of the premises where an animal which has been declared dangerous or potentially dangerous is confined reveals that the owner has not complied with the requirements for confining a dangerous animal, an Officer shall issue a \$250.00 civil penalty in accordance with Section §91.99 and may impound the animal.
- (4) Nothing in this article shall prevent a private citizen from bringing an action against the owner of an animal, which has caused injury to the private citizen or his property, for damages or any other loss resulting from the animal being dangerous or potentially dangerous.
 - (E) The provisions of this section do not apply to:
- (1) A dog being used by Law Enforcement Officer(s) to carry out the Law Enforcement Officer's official duties;
 - (2) A dog being used in a lawful hunt;
- (3) A dog where the injury or damage inflicted by the dog was sustained by a another domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or
- (4) A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort, was tormenting, abusing, or assaulting the dog, had tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime. **State Law References:** Civil penalties, G.S. § 160A-175(c).

§ 91.10 NUISANCE ANIMALS.

(A) Prohibited generally; exceptions. It shall be unlawful for any person to own, keep, possess, harbor or maintain an animal in such a manner as to annoy or disturb rights and privileges common to the public or to annoy or disturb persons in the enjoyment of private property. By way of example and not of limitation, the following are hereby declared to be a public nuisance and are, therefore, unlawful:

- (1) Getting into or turning over waste or garbage containers.
- (2) Walking on or sleeping on automobiles of another.
- (3) Damaging the real or personal property of anyone other than its owner.
- (4) Repeatedly being or running at large.
- (5) Being maintained in an unsanitary condition so as to be offensive to sight or smell.
- (6) Not being confined to a building or secure enclosure while in estrus.
- (7) Being vicious or chasing, snapping at, attacking, or otherwise molesting others including, pedestrians, bicyclists, motor vehicle passengers, or domestic animals.
- (8) Allowing or permitting an animal to bark, whine, howl or yowl in an excessive, continuous or untimely fashion, or to make other noise in such a manner so as to result in a serious annoyance or dereference with the reasonable use and enjoyment of neighboring premises. Any person lodging such complaint shall be responsible for pursuing available judicial remedies by filing such action with the appropriate judicial authority.
- (9) Being housed or restrained less than five feet from a public street, road or sidewalk such that, in the discretion of an Officer, the location of the animal poses a threat to the general safety, health and welfare of the general public.
- (10) By virtue of number or type, being offensive or dangerous to the public health, safety, or welfare.
 - (11) Being diseased or dangerous to the health of the public.
- (B) Complaint and notice. Upon their own initiative or upon receipt of a detailed written and signed complaint being made to an Officer by any of the Town residents that any person is maintaining a nuisance animal, an Officer may cause the owner of the animal or animals in question to be notified that a complaint has been received and may cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing by the investigating Officer(s).
- (C) Abatement. If the written findings of the investigating Officer(s) indicate that the complaint is justified, then the Officer(s) shall cause the owner or keeper of the animal or animals in question to be notified in writing, served by personal delivery or by certified mail, return receipt requested, and ordered to abate such nuisance within a reasonable time not to exceed seven days after notification, and may issue a citation for the violation. The Officer(s) may specify the particular abatement measures that must be taken, which may include, but are not limited to, a requirement that the animal be penned, or that a secure enclosure be erected or improved.

(D) Impoundment upon failure to abate. If any person actually or constructively receiving notice in the manner herein described shall fail to refuse to abate the nuisance upon order of an Officer within the specified time, the Officer(s) may cause the animal or animals in question to be seized and impounded in accordance with the provisions of Section §91.21.

§ 91.11 ADMINISTRATION AND ENFORCEMENT.

The Officer(s) are responsible for the enforcement of this chapter. The Officers shall have all powers, responsibilities and immunities granted by law and as set forth in this chapter. The Officers are authorized to initiate legal action to enforce this chapter.

- (A) Duties of Officers. The Officer is charged with the following:
- (1) Enforcing and carrying out within the Town; the provisions of this chapter, any other ordinance assigning Animal Control duties, all relevant State laws, cooperating with the Franklin County Animal Control Department and other Law Enforcement agencies;
- (2) Canvassing the Town, including dwellings, businesses and institutions in the Town as necessary and practical, for the purpose of ascertaining that all dogs and cats in the Town are adequately inoculated against rabies, and for the purpose of ascertaining compliance with this chapter and State statutes;
- (3) Investigating complaints with regard to animals covered by this chapter and protecting animals from cruelty or abuse;
- (4) Seizing and impounding, when necessary, any animal in the Town involved in a violation of this chapter or any other ordinance or State law;
- (5) Going upon private property, and seizing animals on public or private property pursuant to the provisions of this chapter, State statute or with the consent of an owner or occupant of the property; as evidence; by criminal or administrative warrant; or by order of a court of competent jurisdiction of this State;
- (6) Keeping, or causing to be kept, accurate records of seizures, impoundments, dangerous animals, disposition of animals coming into the custody of the Animal Control Unit, bite cases, violations, complaints, investigations and monies collected;
- (7) Issuing citations, orders and assessing civil penalties for violations of this chapter and when authorized by law.
- (B) Limited liability. Except as may be otherwise provided by statute or local law or ordinance, no Officer, agent or employee of the Town charged with the duty of enforcing the provisions of this chapter or other applicable law shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such duties.

- (C) Inspections. Whenever it is necessary to make an inspection to enforce any of the provisions of this chapter, or other applicable law, or whenever an Officer has reasonable cause to believe that there exists in any building or upon any premises any violation of this chapter or other applicable law, the Officer is empowered to enter and inspect such property at any reasonable time and perform any duty imposed upon them by this chapter or other applicable law, but only if the consent of the occupant or owner of the property is freely given or an administrative search warrant or criminal search warrant is obtained as follows:
- (1) If such property is occupied, the Officer shall first present credentials to the occupant and request entry, explaining the reasons therefore; or
- (2) If such property is unoccupied, the Officer shall first make a reasonable effort to locate the owner or other persons having control of the property, present proper credentials and request entry, explaining the reasons therefore; or
- (3) If entry is refused or cannot be obtained because the owner or other person having control or charge of the property cannot be found after due diligence, an Officer may obtain an appropriate warrant to conduct a search, or inspection of the property or seizure on the property.

Notwithstanding any other provision of this chapter, an Officer shall have the authority to enter upon any land to enforce the provisions of this chapter, including the seizure of animals running at large, or other applicable law if a violation of such law is being committed in the presence of the Officer and requires immediate action on the part of the Officer to protect the health or safety of the animal or the public. In the case of animals at large, so long as the animal is within sight of the Officer, this section shall not be interpreted to require that a warrant be obtained before seizing the animal.

- (D) Interference. It shall be unlawful for any person to interfere with, hinder, molest, resist or obstruct an Officer while they are carrying out any duty created under this chapter or other applicable law.
- (E) Concealment of animal. It shall be unlawful for any person to conceal, for the purpose of evading the licensing requirement, rabies inoculation requirement or other requirements of this chapter or any applicable law, any unlicensed, un-inoculated or other unlawful animal from any Officer.
- (F) Concealment of license, etc. It shall be unlawful for any person to refuse to show proof of a rabies inoculation to any Officer upon request.
- (G) Unauthorized release. It is unlawful for any person to seek to release, attempt to release, or to release any animal in the custody of an Officer, except as otherwise specifically provided in this chapter. An animal captured in a trap set by an Officer shall be deemed to be in custody of Animal Control.

§ 91.12 BIRD SANCTUARY.

- (A) Town designated as sanctuary. The area within the corporate limits of the Town and all land owned or leased by the Town outside the corporate limits is hereby designated as a bird sanctuary, as authorized by G.S. 160A-188.
- (B) Unlawful to trap, etc. It shall be unlawful intentionally to trap, hunt, shoot or otherwise kill, within the sanctuary hereby established, any native wild bird, except those birds classified as a pest under Article 22A of Chapter 113 of the General Statutes (G.S. 113-300.1 et seq.) and the Structural Pest Control Act of North Carolina of 1955 (G.S. 106-55.22 et seq.) or the North Carolina Pesticide Law of 1971 (G.S. 143-434 et seq.), pursuant to an appropriate permit issued by North Carolina Wildlife Commission.

§ 91.13 SHOOTING OR POISONING WILD GAME OR SQUIRRELS.

It shall be unlawful for any person to shoot any wild game or any squirrel, whether wild or tame, with any firearm, bow and arrow, or willfully poison any wild game or squirrel for sport. In cases of overpopulation in the Town, individuals shall request a permit from the Chief of Police for the removal thereof.

§ 91.14 RABIES INOCULATION.

- (A) Immunization.
- (1) It shall be required that any dog or cat over the age of six months be vaccinated against rabies with an approved anti-rabies vaccine administered by a veterinarian or certified vaccinator in accordance with G.S. § 130A-185. Owners of said dog(s) or cat(s) are responsible for maintaining immunization records and furnishing such to an Officer upon request.
- (2) All dogs and cats must wear a collar and identification tag and a rabies vaccination tag at all times when not confined to a domestic dwelling.
- (B) Bites. Wounds inflicted by an animal upon human beings shall be reported immediately to an Officer.
- (1) Every dog or cat that bites a human being and does not have a valid rabies vaccination tag shall be delivered within eight hours of the bite incident by the owner to Franklin County Animal Control, where the animal shall be confined for observation for not less than ten days.

§ 91.15 TEASING AND MOLESTING.

It shall be unlawful for any person to tease, molest or bait any animal not belonging to him or legally under his control. ('81 Code, § 4-23) Penalty, see § 91.99

§ 91.16 RUNNING AT LARGE PROHIBITED.

- (A) It shall be unlawful for any owner or custodian of an animal to allow his animal to run at large. If the animal is creating a public nuisance and an Officer determines, after an investigation, that the reports concerning the animal is supported by evidence, the investigating officer shall notify the owner of the animal found to be creating a public nuisance and thereafter the owner must keep the animal on his property at all times or under restraint by leash, chain or otherwise.
- (B) Duty of Police Department. It is hereby declared the duty of the Police Department or Animal Control Officer(s) to notify the owner of any animal creating a public nuisance as defined in section §91.10.
- (C) All animals creating a public nuisance shall forthwith be turned over to the Animal Control Officer(s) for impoundment.

('81 Code, § 4-24) (Am. Ord. Passed 10-20-86) Penalty, see § 91.99

Statutory reference: Municipal animal taxes, see G.S. § 160A-212

§ 91.17 RESERVED.

§ 91.18 ANIMALS IN ESTRUS.

It is the responsibility of the owner that every female animal, while in estrus, shall be confined in a building or secure enclosure in such manner that she will not be in contact with another animal, as the case may be, nor create a nuisance by attracting other animals; provided, this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner of an animal being bred. ('81 Code, § 4-26) Penalty, see § 91.99

Statutory reference: Similar provisions, see G.S. § 67-2

§ 91.19 INTERFERENCE WITH IMPOUNDMENT PROHIBITED.

It shall be unlawful for any person to obstruct or interfere with in any way the impoundment of any animal found in violation of the provisions of this chapter. ('81 Code, § 4-27) Penalty, see § 91.99

§ 91.20 FOWL.

Chickens shall be allowed on residential property within the corporate limits of the Town at a maximum of 5 chickens per property. It shall be unlawful for any person owning and keeping chickens to allow the fowl to run at large in the Town or on their property. All fowl are to be kept in an enclosure, chicken house or coop and must be maintained in a clean and sanitary condition at all times. Chickens and their houses must be kept a minimum of thirty (30) feet from the property line and no closer than fifty (50) feet to another residence. All chickens and their houses are to be placed in the rear yard. It shall be unlawful to raise chickens for commercial purposes within the corporate limits of Town.

It shall be unlawful for any person to keep or maintain on any premises or lot within the Town any rooster, duck, goose or other such bird or fowl that by loud and habitual crowing, quacking or honking or in any other manner constitutes a public nuisance. Failure to abate such nuisance shall be unlawful and punishable according to law. Penalty §91.99

§ 91.21 KEEPING BEES IN R-1A RESIDENTIAL AGRICULTURAL ZONING DISTRICT.

It shall be unlawful for any person to keep or maintain more than 5 bee hives or colony of bees in any apiary, beehive, or other structure. All hives shall be maintained and placed at ground level and/or securely attached to an anchor or stand and may be permitted to permanently attach to a roof surface. Bee hives require a zoning permit and are permitted in the R-1A Residential Agricultural Zoning District. All hives must adhere to a 50 foot setback from the property line and shall be located in the rear of the property. All such bees and bee colonies shall be maintained so as not to constitute a nuisance. Removal of the hive or hives shall be necessary in order to protect the health, safety, and welfare of the public.

State Law References: NCGS §160-645.

§91.22 HORSES.

Horses shall be allowed on residential property for personal use only within the corporate limits of the Town and shall be limited to two head for each contiguous full acre under single ownership. It shall be unlawful for any person to board, breed or train a horse for commercial purposes within the Town limits.

A stable shall be limited to 900 square feet in area under roof for the first full acre plus 500 square feet for each additional contiguous full acre under single ownership, up to a maximum of 2,500 square feet. Stables shall not be allowed in the front or side yards and shall maintain a setback of at least 40 feet from any lot line.

Fences or walls establishing the perimeter of a corral used in the keeping of horses shall maintain a rear or side setback of at least 20 feet from the lot line and a front yard setback of at least 50 feet from any lot line.

§ 91.99 PENALTY.

- (A) Civil penalties. Unless otherwise provided for in a particular section, the Police Department is authorized to assess civil penalties in the following manner:
- (1) A civil penalty of \$50.00 shall be assessed for the first violation of any provision of this chapter.
- (2) A civil penalty of \$100.00 shall be assessed for each second or subsequent violation of this chapter.
- (3) A civil penalty of \$500.00 shall be assessed for violation of any provision of this chapter by an animal that has been declared dangerous or potentially dangerous.

(4) A civil penalty of \$150.00 shall be assessed for habitual violations, as defined herein, of any provision of this chapter.

A civil penalty is due and owing upon assessment. Surrender of an animal or failure to redeem an animal shall not relieve the owner of responsibility for payment of any outstanding civil penalty that was assessed prior to the animal being surrendered or as a result of the animal being impounded. If payment of a civil penalty is not received within five working days of issuance, an Officer may initiate legal proceedings to recover the amount of the penalty.

State Law References: Civil penalties, G.S. § 160A-175(c).

CHAPTER 93: CIVIL PREPAREDNESS

Section

- 93.01 State of Emergency Authorized93.02 Curfew Authorized93.03 Application of Curfew; Exceptions93.04 Prohibited Acts
- 93.05 End of State of Emergency

§ 93.01 STATE OF EMERGENCY AUTHORIZED.

A state of emergency shall be deemed to exist whenever, during times of great public crisis, disaster, rioting, catastrophe or similar public emergency, for any reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property.

§ 93.02 CURFEW AUTHORIZED.

If an existing or threatened state of emergency endangers the lives, safety, health and welfare of the people within the Town, or threatens damage to or destruction of property, the Mayor is hereby authorized and empowered to issue a public proclamation, declaring to all persons the existence of such a state of emergency. In order to more effectively protect the lives, safety and property of people within the Town, the Mayor is also empowered to define and impose a curfew applicable to all persons within the jurisdiction of the Town.

§ 93.03 APPLICATION OF CURFEW; EXCEPTIONS.

The Mayor is hereby authorized and empowered to limit the application of a curfew established in a state of emergency to any area specifically designated and described within the corporate limits of the Town and to specific hours of the day or night, and to exempt from the curfew police personnel, firefighters, doctors, nurses and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the Town.

§ 93.04 PROHIBITED ACTS.

During the existence of a proclaimed state of emergency, when a curfew has been imposed, it shall be unlawful for anyone subject to such curfew:

- (A) To be or travel upon any public street, alley or roadway or upon public property, unless in search of medical assistance, food or other commodity or service necessary to sustain the well-being of himself, his family or some member thereof;
- (B) To possess off one's own premises, buy, sell, give away or otherwise transfer or dispose of any explosives, firearms, ammunition or dangerous weapon of any kind;
- (C) To sell beer, wine or alcoholic beverage of any kind or to possess or consume the same off one's own premises;
- (D) To sell gasoline or any other similar petroleum products, or any other inflammable substance, except as expressly authorized by the provisions of the curfew imposed.

§ 93.05 END OF STATE OF EMERGENCY.

The Mayor shal	l proclaim the	end of suc	h state of e	emergency and	curfew as	soon as
circumstances warrant	, or when dired	cted to do	so by the B	oard of Comm	issioners.	

CHAPTER 94: FIRE PREVENTON AND PROTECTON

Section

General Provisions

94.01	Record of Fires
94.02	Public Passageways
94.03	Building Exits; Encumbrances
94.04	Storage of Inflammable Materials
94.05	Lights where Explosives are Stored
94.06	Fireworks
94.07	Deposit of Matter Liable to Spontaneous Combustion

Fire Prevention Code

94.20	Fire Prevention Code Adopted
94.21	Modifications
94.22	Appeals
94.23	New Materials, Processes or Occupancies which may Require Permits

GENERAL PROVISIONS

§ 94.01 RECORD OF FIRES.

The Franklin County Fire Inspector shall keep, or shall cause to be kept, an accurate record of all fires occurring in the Town. For each such fire, the following information shall be secured and kept:

- (A) Location of premises.
- (B) Owner of premises.
- (C) Brief description of premises, whether of brick, stone, concrete, iron of wood.
- (D) How premises occupied, whether as dwelling, storehouse, factory, workshop or otherwise.
 - (E) Amount and nature of damage as to both real and personal property.
 - (F) Amount of insurance.
 - (G) Cause of fire.
- (F) Date of fire. ('81 Code, § 8-21)

§ 94.02 PUBLIC PASSAGEWAYS.

All doors, aisles and passageways, within and leading into or out of theaters, churches and other places of public assembly, shall be lighted during the entire time in which any show, performance, service, exhibition, lecture, concert, ball or other assemblage is taking place, and shall be free from signs, easels, chairs, sofas, benches and any other articles that might obstruct or delay the exit of the audience. ('81 Code, § 8-22) Penalty, see § 10.99

§ 94.03 BUILDING EXITS; ENCUMBRANCES.

It shall be unlawful for any person to encumber any fire escape, balcony or ladder which is intended as a means of escape from fire. It shall be the duty of all police officers and firefighters who shall discover such an encumbered fire escape, to report it to his department to the Chief of the Fire Department, who shall immediately notify the owner, agent or tenant to vacate or remove the encumbrance immediately. ('81 Code, § 8-23) Penalty, see § 10.99

§ 94.04 STORAGE OF INFLAMMABLE MATERIALS.

It shall be and is hereby declared unlawful for any person to install or use a tank containing any inflammable materials, such as kerosene, gasoline, naphthalene or other liquefied petroleum contained in a tank, the total number of gallons water capacity exceeding 500 gallons, above ground in the corporate limits of the Town.

('81 Code, § 8-24) (Ord. passed 12-6-60) Penalty, see § 10.99

§ 94.05 LIGHTS WHERE EXPLOSIVE ARE STORED.

It shall be unlawful for any person to install or turn on any lights, in any building where combustibles or explosives are stored, without first having secured a permit from the Franklin County Fire Inspector. ('81 Code, § 8-25) Penalty, see § 10.99

§ 94.06 FIREWORKS.

It shall be unlawful for any person to explode any firecrackers or pyrotechnics; provided, however, nothing contained in this section shall prohibit the exhibition of fireworks on any occasion, when permission is granted by the Franklinton Board of Commissioners. ('81 Code, § 8-26) Penalty, see § 10.99

§ 94.07 DEPOSIT OF MATTER LIABLE TO SPONTANEOUS COMBUSTION.

No person shall deposit ashes, smoldering coals or embers, greasy or oily substances or other matter liable to spontaneous combustion with 15 feet of any wooden or plastered wall, partition, fence, floor, sidewalk, lumber, rubbish or other combustible material, except in metallic or noncombustible surfaces, and in every case shall be kept at least two feet from any wall or partition. Nothing in this section shall prevent the deposit of cold or wet ashes and cinders for the improvement of any unpaved alley or walkway. ('81 Code, § 8-27) Penalty, see § 10.99

FIRE PREVENTION CODE

§ 94.20 FIRE PREVENTION CODE ADOPTED.

There is hereby adopted for the purpose of prescribing regulation governing regulations conditions hazardous to life and property from fire or explosion, the latest edition of the American Insurance Association code, a certified copy of which has been and now is filed in the office of the Town Clerk, and the same is hereby adopted by reference as fully as if set out at length by this section. ('81 Code, § 8-16)

Statutory reference: Adoption of technical codes, see G.S. § 160A-76(b)

Authority of town to restrict the use of explosives, see G.S. § 160A-183

§ 94.21 MODIFICATIONS.

The Town Manager and the Franklin County Fire Inspector shall have power to modify any of the provisions of the Fire Prevention Code adopted by § 94.20 upon application in writing by the owner or lessee, or his duly authorized agent where there are practical difficulties in the way of carrying out the strict letter of the Fire Prevention Code; provided, that the spirit of the Fire Prevention Code shall be observed, public safety secured, and substantial justice done. The particulars of the modification when granted or allowed and the decision of the Town Manager and the Franklin County Fire Inspector thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant. ('81 Code, § 8-17)

§ 94.22 APPEALS.

Whenever the Franklin County Fire Inspector shall disapprove an application or refuse to grant a license or permit applied for, or when it is claimed that the provisions of the Fire Prevention Code adopted by § 94.20 do not apply, or that the true intent and meaning of the Fire Prevention Code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Franklin County Fire Inspector to the Franklinton Board of Commissioners within 30 days from the date of the decision from which the appeal is taken. ('81 Code, § 8-18)

§ 94.23 NEW MATERIALS, PROCESSES OR OCCUPANCIES WHICH MAY REQUIRE PERMITS.

The Town Manager and the Franklin County Fire Inspector shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, and new materials, processes or occupancies, which shall require permits, in addition to those enumerated in the Fire Prevention Code adopted by § 94.20. The Franklin County Fire Inspector shall post such list in a conspicuous place in his office, and distribute copies thereof to interested persons. ('81 Code, § 8-19)

CHAPTER 95: NOISE CONTROL

Section

95.01	Loud, Disturbing or Unnecessary Noise Prohibited
95.02	Particular Sounds Prohibited
95.03	Exceptions
95.04	Non-resident Owner and Occupant Responsibility

§ 95.01 LOUD, DISTURBING OR UNNECESSARY NOISE PROHIBITED.

It shall be unlawful for any person to create or assist in creating, permit, continue or permit, the continuance of any unreasonably loud, disturbing and unnecessary noise in the Town. (Ord. passed 9-17-91) It shall be unlawful for any person to create, assist in creating, or to operate a business that creates a noise after 10 PM and before 7 AM that is detectable off-site from the area where the noise is being created. Off-site shall be defined as the area outside of the parcel of land or building where the noise is being generated. The standard for determining whether a noise is detectable is whether a person without the assistance of a technological device can hear a noise being created from their location outside of the building or parcel where the noise is being generated. It shall be unlawful at any time for any vehicle, including motorcycles, to emit noise, sound, or music that can be detected without the aid of a technological device at a distance of 50 feet or more from the vehicle that is emitting the noise. Exceptions to this section can be found in Section 95.03. A violation of this section shall subject the offender to a penalty described in §95.99 Penalty. (Ord. passed 11-19-2024)

§ 95.02 PARTICULAR SOUNDS PROHIBITED.

Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited. The following acts, among others are declared to produce loud, disturbing and unnecessary noises in violation of this chapter, but such enumeration shall not be deemed to be exclusive namely:

- (A) The sounding of any horn, signal device or any device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal; the creation by means of such signal device of any unreasonably loud or harsh sound; and the sounding of the device for an unnecessary and unreasonable period of time;
- (B) The use of any gong or siren upon any vehicle other than police, fire or other emergency vehicle;
- (C) The playing of any radio, phonograph, or other musical instrument(with sound emitting from a residence or motor vehicle, carried by a pedestrian or from some other source) in such a manner or with such volume, as to annoy or disturb the quiet, comfort or repose of any person;
- (D) The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort and repose of any person in the vicinity;
- (E) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling or other noises;
- (F) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger;

- (G) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises there from;
- (H) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced;
- (I) Performing construction work, operating construction machinery, lawnmowers and other motor-driven domestic tools out-of-doors, except between the hours of 7:00 am and 9:00 pm on any day.
- (J) The creation of excessive noise on any street adjacent to any school, institution of learning, church or court while they are in session, or within 150 feet of any hospital, which unreasonably interferes with the working of the institution; provided, conspicuous signs are displayed in the streets indicating that the same is a school, court or hospital street;
- (K) The shouting and crying of peddlers, barkers, hawkers and vendors which disturbs the quiet and peace of the neighborhood;
- (L) The conducting, operating or maintaining of any garage or filling station in any residential district so as to cause the loud or offensive noises to be emitted thereof between the hours of 10:00 p.m. and 7:00 a.m.;
- (M) The firing or discharging of any kind of gun, squibs, firecrackers, gunpowder or other combustible substance in the streets or elsewhere for the purpose of making noise or disturbance, except by permit @ public events which shall be approved by the Board of Commissioners. (Ord. passed 9-17-91; Am. Ord. passed 1-18-05)(Am. Ord. passed 4-16-19) Penalty §95.99

§ 95.03 EXCEPTIONS.

The following are excepted from the application of this chapter:

- (A) Construction activity performed by an agency of government provided that all equipment is operated in accordance with manufacture's specifications and is equipped with all noise-reducing equipment in proper conditions;
- (B) Sound or noise of safety signals, warning devices, emergency pressure relief valves and church bells;
- (C) Noises resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of an emergency;

- (D) Sound or noise emanating from street fairs, festivals or celebrations conducted pursuant to a Special Event Permit issued by the Town Manager.
- (E) Sound or noise emanating from properly equipped aircraft operated in accordance with applicable federal rules and regulations;
 - (F) Sound or noise from lawful fireworks;
 - (G) Musical accompaniment to parades or military ceremonies; and
- (H) Sounds emanating from regularly scheduled athletic events at Town parks and school athletic facilities. (Ord. passed 1-18-05)

§ 95.04 NON-RESIDENT OWNER AND OCCUPANT RESPONSIBILITY.

- (A) A non-resident owner of any premises subject to this chapter shall be responsible and liable for any actions by the tenants or occupants of the premises that constitute second or subsequent violations of this chapter; provided that no non-resident owner shall be liable unless notified of a first or previous violations of this chapter; and further provided that the first or previous violations shall have occurred within the previous 24 month period. Notice of the first or previous violations shall be effected personal delivery or by mailing a copy of the citation to the non-resident owner by registered or certified mail, return receipt requested. No non-resident owner may be subjected to criminal liability by the application of this section, but shall be subject to civil penalties and equitable relief as provided hereinafter. This section shall in no way relieve any tenant or occupant from responsibility for violations of this chapter.
- (B) The owner or occupant of any premises shall be responsible and liable for any actions of guests or invitees on the premises that violate this chapter; provided that the occupant shall have been actually or constructively present at the time of the violation. (Ord. passed 1-18-05)

§ 95.99 PENALTY.

- (A) A violation of the provisions of this chapter is a misdemeanor punishable in accordance with the provisions of G.S. §14-4. The fine for such violation shall not exceed \$500.
 - (B) A violation of this chapter shall subject the offender to the following civil penalties:
 - (1) For the first violation, a civil penalty of \$50;
 - (2) For the second violation, a civil penalty of \$100;
 - (3) For the third violation, a civil penalty of \$250

- (4) Any subsequent violation, a civil penalty of \$500.
- (C) If any person fails to pay a civil penalty within 15 days after being cited for a violation, the Town may seek to recover the penalty in a civil action in the nature of debt.
- (D) The provision of this chapter may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.
- (E) Each day's continuing violation of any provisions of this chapter shall be a separate and distinct offense. (Am. Ord. passed 1-18-05)

CHAPTER 96: NUISANCES

Section

96.01	Purpose
96.02	Premises Kept Clean
96.03	Public Nuisance Conditions
96.04	Notice of Violation
96.05	Notice to Chronic Violators

§ 96.01 PURPOSE.

This ordinance provides for the prevention and abatement of public nuisances caused by the uncontrolled growth of noxious weeds and grass and the accumulation of refuse and trash.

§ 96.02 PREMISES KEPT CLEAN.

Every person owning or occupying any premises in the corporate limits of the Town shall keep yards and exterior premises free from noxious weeds, trash, and all other forms of animal or vegetable refuse or plant growth which may be dangerous or prejudicial to the public health, or which may constitute a nuisance.

('81-Code, §13-4) (Ord. passed 8-14-61; Am. Ord. passed 1-12-79) Penalty, see §10.99 *Cross-reference:* In matters affecting public health, the Town's corporate limits include extraterritorial jurisdiction, see Charter §32A

§ 96.03 PUBLIC NUISANCE CONDITIONS.

The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits of the Town is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

- (A) The uncontrolled growth of noxious weeds or grass to a height in excess of ten (10) inches causing or threatening to cause a hazard detrimental to the public health or safety;
- (B) Any accumulation of rubbish, trash, or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health;
- (C) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors of the inhabitance therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health;
- (D) The open storage of any abandoned icebox, refrigerator, stove, glass, furniture, other appliances, building material, building rubbish, refuse including unattended, abandoned, or junked motor vehicles regardless of ownership or location, other waste, or similar items.
- (E) An open storage place for old worn out, broken or discarded machinery, car parts, junk, tire rims, furniture, stoves, refrigerators, appliances, cans and containers, household goods, plumbing or electrical fixtures, old rusty metal, fencing materials or other similar materials.
- 1. Any accumulation of garbage, rubbish, trash, or junk causing or threatening to cause hazard, or causing or threating to cause the accumulation of stagnate water, or causing or

threating to cause the inhibition therein of rats, mice, snakes, mosquitoes, or vermin prejudicial to the public health.

§ 96.04 NOTICE OF VIOLATION.

If any person shall violate the provisions of this chapter, it shall be the duty of the Franklinton Code Enforcement Officer to give notice to the owner or person in possession of the premises that within ten (10) days or sooner depending on the severity of the nuisance to remove all weeds and trash and other offensive animal or vegetable matter from the property.

Should any owner or occupant fail to comply with the notice, the Code Enforcement Officer shall fine the owner or person in possession of the premises a (\$50.00) ordinance violation fee. Each day is considered a new violation and additional fees will be assessed to the individual responsible for violation of this chapter.

Abate procedure. If the owner of any property fails to comply with a notice given pursuant to this section, within ten days after the service of such notice, he shall be subject to prosecution for violation of this section in accordance with the law and each day that such failure continues shall be a separate offense. In addition, the city may have the condition described in the notice abated, removed or otherwise corrected and all expenses incurred thereby shall be chargeable to and paid by the owner of the property and shall be collected as taxes and levies are collected. All such expenses shall constitute a lien against the property on which the work was done.

Procedure is alternative. The procedures set forth in this section shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this section shall not prevent the city from proceeding in a criminal action against any person, firm or corporation violating the provisions of this section as provided in § G.S. 14-4. In addition to the remedies provided for herein, any violation of the terms of this section shall subject the violator to the penalties and remedies, either criminal or civil of both, as set forth in §10.99 Code of Ordinances.

North Carolina General Statue reference §160A-193.

In addition, if the owner or person in possession of the premises fails to abate the nuisance in the time frame allotted by the notice, the Franklinton Code Enforcement Officer shall be responsible to have the same removed and the owner or person in possession shall be responsible to the Town for the costs thereof. ('81 Code, §13-5) (Ord. passed 8-14-61) (Ord. passed 4-16-19) Penalty see §10.99

§ 96.05 NOTICE TO CHRONIC VIOLATORS.

A municipality may notify a chronic violator of the municipality's overgrown vegetation ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which notice is given, take

action to remedy the violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality took remedial action at least three times under the overgrown vegetation ordinance.

Statutory reference: Annual notice to chronic violators of overgrown vegetation ordinances. NCGS 160A-200.1

Chapter 98: GRAFFITI

Section

98.01	Purpose and Intent
98.02	Definitions
98.03	Graffiti Prohibited
98.04	Removal of Graffiti
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98.05 Appeal

98.06 Abatement by Town

98.07 Charges for Abatement by Town

98.08 Penalties

§ 98.01 PURPOSE AND INTENT.

It is the purpose and intent of the Board of Commissioners of the Town of Franklinton, through the adoption of this ordinance, to declare and find that graffiti on public and private property is a blighting factor which not only depreciates the value of the property which has been the target of such malicious vandalism, but which also depreciates the value of the adjacent and surrounding properties and thereby negatively impacts the entire community. This chapter shall provide a procedure for removal of graffiti from walls and structures on both public and privately owned property and to protect the public safety, and to provide for the recovery of costs of such removal.

The Board of Commissioners further finds and determines that the inscription of graffiti may be associated with criminal activity and finds that the presence of graffiti unlawful on any property shall prosecute offenders to the maximum extent allowed by law. **Statutory reference:** (NCGS §160A-193) (NCCL §19-4)

§ 98.02 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GRAFFITI. Any unauthorized or non-permitted inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, and applied for and approved for a zoning certificate by the Zoning Administrator in accordance with this chapter.

(**Note:** To avoid prohibiting legitimate artwork, the graffiti definition only includes markings that are unauthorized or otherwise deemed by the Town Manager to be public nuisances.) Ref. §154.100

GRAFFITI IMPLEMENT. An aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

§ 98.03 GRAFFITI PROHIBITED.

(A) Defacement

It shall be unlawful for any person to apply graffiti to any public or privately owned structure located on public or privately owned property within the Town limits and Extra Territorial Jurisdiction.

It shall be unlawful for any owner, leasee, occupant or other person having present possession of a lot or parcel of land within the Town to:

- (1) Permit graffiti to remain upon such lot or parcel of land or;
- (2) To maintain any structure affixed to such lot or parcel or lend with graffiti on such structure or any portion thereof, for a period in excess of ten (10) calendar days following service by the Town of a notice to abate graffiti.
- (B) Possession of Graffiti Implements. It shall be unlawful for any person to possess any graffiti implement while in or upon any public facility, park, playground, swimming pool, recreational facility, or other public building or structure owned or operated by the Town or while in or within fifty (50) feet of an underpass, bridge abutment, storm drain, or similar types of infrastructure with the intent to comment a violation in accordance with this chapter and authorized by the Town.
- (C) Accessibility to Graffiti Implements. Furnishing for Graffiti Purposes Prohibited. No person, other than a parent or legal guardian, shall sell, exchange, give, loan, or otherwise furnish, or cause to permit to be exchanged, given, loaned, or otherwise furnished, any graffiti implement to any person knowing or having reason to believe that said person intends to use the same in violation of this Ordinance.
- (D) Graffiti as a Nuisance. The existence of graffiti on public or private property in violation of this ordinance is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this ordinance.

It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to keep the property clear of unauthorized graffiti at all times.

§ 98.04 REMOVAL OF GRAFFITI. Notice and order to abate nuisance.

For the purposes of this chapter, the respondent is the person in possession of the property where a public nuisance (as described in §98.02) is located, as well as the owner of such property, if different from the former.

Upon determination by the Town that there exists on any property conditions constituting a public nuisance (as described in §98.02) the Town shall notify the respondent by certified and first class mail of such conditions and shall order the abatement thereof within ten (10) days of the date of such notice. If the certified mail notice is unclaimed or refused but the first class mail is not returned within (10) ten days after the mailing, the first class mail shall be sufficient to provide notice.

If after due diligence the respondent's correct address cannot be determined, then a required notice shall be posted conspicuously on the offending property. The posted notice shall order the abatement of the nuisance within (10) ten days of the posting of the notice. Failure to give notice, as set forth herein shall not affect the enforcement of this chapter.

§ 98.05 APPEAL.

At any time before the expiration of the ten (10) days abatement period specified in §98.04, the respondent may request a hearing before the Town Manager to appeal the finding of the Town that graffiti exists on the premises. Upon completion of the hearing, the Town Manager shall consider the evidence and shall either revoke the initial order, issue a final order, which differs from the initial order, or reinstate the initial order as a final abatement order.

Cost hearing. If the Town has caused the abatement of the graffiti as defined in §98.02, at any time within thirty (30) days of the owner's receipt of a statement of charges from the Town for the removal of the graffiti, the property owner may request a hearing before the Town Manager to appeal the charges and the finding of the Town that graffiti existed. Upon completion of the hearing, the Town Manager shall consider the evidence and shall either uphold, modify or revoke the charges resulting from the abatement by the Town.

Request submitted. Any request for a hearing pursuant to this chapter must be in writing and must be filed in the office of the Town Manager. The Town Manager shall fix a time for the hearing, and the initial abatement order or the accrual of interest on the statement of charges shall be temporarily suspended pending such hearing. The hearing must be held by the Town Manager within thirty-one (31) calendar days following receipt of the request for hearing by the office of the Town Manager. At the hearing, the individual affected by the order shall be given the opportunity to present evidence to refute the findings, which supported the abatement order or the removal of the nuisance condition.

§ 98.06 ABATEMENT BY TOWN.

Upon the occurrence of either of the following conditions:

- (A) A hearing is requested and held under §98.05 resulting in either a final order with modifications or the reinstatement of the initial order as a final order, and such order is not complied with within ten (10) days from adjournment of the hearing;
- (B) No hearing is requested or held, and the respondent having been ordered to abate such public nuisance fails, neglects or refuses to abate or remove the condition constituting the nuisance within ten (10) days from the date of said order, or

(1) The property owner fails to abate conditions constituting the nuisance within ten (10) days of notification of the owner of such conditions;

Then the Town shall cause the nuisance to be removed or otherwise remedied by having employees of the Town or designee go upon said premises and remove or otherwise abate the graffiti under the supervision of a police officer or other employee of the Town.

§ 98.07 CHARGES FOR ABATEMENT BY TOWN.

Should the Town be required to abate the graffiti as a public nuisance as set forth in this chapter, all costs incurred by the Town in removing or otherwise remedying the nuisance shall be charged to the owner of the offending property.

In the event charges for the removal or abatement of the graffiti are not paid within thirty (30) days after the receipt of a statement of charges from the Town, a lien shall be placed upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes.

Statutory reference: NCGS 160A-193.

§ 98.08 PENALTIES.

CRIMINAL OFFENSES.

Where there is a reported violation of any provision of this Ordinance, which such violation is observed by a Town Police Officer, or in the event that a Town Police Officer observes a violation in the absence of a report, the Town Police Officer may issue a citation subjecting the violator to civil and criminal penalties as set forth below:

- (A) Any violation of this chapter shall subject the offender to a civil penalty in the amount of two hundred fifty dollars (\$250);
- (B) Any subsequent violation shall be a separate and distinct offense, which shall subject the offender to an additional civil penalty in the amount of five hundred dollars (\$500);
- (C) In addition to or in lieu of remedies authorized in subsections (A) and (B) above, violations of this chapter may be prosecuted as a general misdemeanor with a fine of \$50.00 plus court costs in accordance with N.C.G.S. § 160A-175.

Restitution. In addition to any punishment specified in this chapter, the court may order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the court. (Ord. passed 08-21-07)

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. GENERAL PROVISIONS
- 111. RESERVED
- 112. AMUSEMENTS
- 113. TAXICABS

CHAPTER 110: GENERAL PROVISIONS

Section

110.01	Construction
110.02	Sunday Sales
110.03	Smoking Prohibited in Restaurants and Bars
110.04	Penalty

§ 110.01 CONSTRUCTION.

Nothing contained in this title shall be construed to prevent the Board of Commissioners from prohibiting businesses where authorized by law or from regulating the business of persons licensed. ('81 Code, § 9-1)

Statutory reference: Taxation generally, see G.S. Ch. 105 Authority of Town to regulate and license businesses and trades, see G.S. § 160A-194 Municipal taxation generally, see G.S. § 160A-206 Privilege license tax, see G.S. § 160A-211 Repealed

§ 110.02 SUNDAY SALES.

All general laws in existence in the State relative to business being conducted on Sunday are hereby adopted and are in full force and effect in the Town. (81 Code, § 9-3)

Statutory reference: Ordinances relating to Sunday sales, see G.S. § 160A-191

§ 110.03 SMOKING PROHIBITED IN RESTAURANTS AND BARS.

Notwithstanding Article 64 of Chapter 143 of the NC General Statutes, smoking is prohibited in all enclosed areas of restaurants and bars, except as provided in subsection (A) of this section.

- (A) Smoking may be permitted in the following places:
- (1) A designated smoking guest room in a lodging establishment. No greater than twenty percent (20%) of a lodging establishment's guest rooms may be designated smoking guest rooms.
- (2) A cigar bar if smoke from the cigar bar does not migrate into an enclosed area where smoking is prohibited pursuant to this Article. A cigar bar that begins operation after July 1, 2009, may only allow smoking if it is located in a freestanding structure occupied solely by the cigar bar and smoke from the cigar bar does not migrate into an enclosed area where smoking is prohibited pursuant to this Article.
- (3) A private club. (2009-27, s. 1.)

 Statutory reference: Ordinances relating to smoking prohibitions, see G.S. § 160A-496

§ 110.04 PENALTY.

Continuing to smoke in violation of a local ordinance or other rules, laws, or policies adopted under this section constitutes an infraction, and the person committing the infraction may be punished by a fine of not more than fifty dollars (\$50.00). Conviction of an infraction

Franklinton – Business Regulations

under this section has no consequence other than payment of a penalty. A person smoking in violation of a local ordinance or other rules, laws, or policies adopted under this section may not be assessed court costs.

Statutory reference: Local Governments may restrict smoking in public places, see G.S. §130A-498

CHAPTER 112: AMUSEMENTS

Section

BILLIARD HALLS

112.01	Definition
112.02	Location upon First or Ground Floor
112.03	Employee's Acts Imputed to Employer
112.04	Hours of Operation
112.05	View into Hall
112.06	Minors
112.07	Prohibited Conduct
112.08	Revocation

112.09 Application for Permit

BINGO HALLS

112.10	Definition
112.11	Employee's Acts Imputed to Employe
112.12	Hours of Operation
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112.14	Employment of Felon
112.15	Application for Permit
112.16	Reserved
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DANCE HALLS

112.20	Definition
112.21	Application for Permit
112.22	Issuance of Permit Conditiona
112.23	Revocation of Permit
112.24	Parking
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112.26	Reserved
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112.29 Reserved

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COMMERCIAL RECREATION GAME ROOM

- 112.30 Definition
- 112.31 Location upon First or Ground Floor
- 112.32 Employee's Acts Imputed to Employer
- 112.33 Prohibited Acts
- 112.34 Hours of Operation
- 112.35 View into Game Room
- 112.36 Use of Premises as a Private Club
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- 112.38 Application for Special Use Permit
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BARS

- 112.45 Definition
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INTERNET SWEEPSTAKES CAFÉ

- 112.50 Intent
- 112.51 Definitions
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SEXUALLY ORIENTED BUSINESSES/ADULT ESTABLISHMENTS

- 112.60 Purpose
- 112.61 Definitions
- 112.62 Zoning Standards
- 112.63 Licensing Requirements
- 112.64 Appeals from Denial or Revocation

BILLIARD HALLS

§ 112.01 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

BILLIARD HALL. A place of amusement where the chief purpose is providing the use of billiard/pool tables to the public for a fee. (See exception, §112.30, Commercial Recreation Game Room.) ('81 Code, §3-16)

§ 112.02 LOCATION UPON FIRST OR GROUND FLOOR.

No billiard hall in the Town shall be located upon any floor of a building other than the first or ground floor. ('81 Code, §3-17) Penalty, see §10.99

§ 112.03 EMPLOYEE'S ACTS IMPUTED TO EMPLOYER.

The acts and conduct of the agents and employees of the operator of a billiard hall shall be deemed the acts and conduct of the operator. ('81 Code, § 3-18)

There must be an adult (18 years of age or older) managing and supervising the business on the premises at all times during hours of operation.

§ 112.04 HOURS OF OPERATION.

All places where billiard tables or pool tables are maintained for public use shall remain closed every day between the hours of 2:00 a.m. and 7:00 a.m. ('81 Code, \S 3-19) Penalty, see \S 10.99

§ 112.05 VIEW INTO HALL.

All billiard halls must have clear windows; it shall be unlawful for the operator thereof or for any employee of the operator to permit any screen or other obstructions to be so placed in a manner as to prevent the interior of the billiard hall from being plainly visible from the street-front. ('81 Code, § 3-20) Penalty, see § 10.99

However, window lettering or decaling may be permissible if the establishment contains two or more clear views into the billiard hall. This type of decoration is permissible on one window for each establishment, provided it does not obscure more than 25% of gross window area.

§ 112.06 MINORS.

No person under the age of sixteen years shall be permitted to play at any game or lounge about or in any public billiard hall or pool hall, unless accompanied by his parent or legal guardian. ('81 Code, §3-21) Penalty, see §10.99

No owner, proprietor or operator of any such establishment shall permit a violation of the foregoing section within his establishment.

§ 112.07 PROHIBITED CONDUCT.

No owner or operator of a billiard hall, nor his or her employees, shall:

- (A) Suffer or permit any gambling on the licensed premises at any time;
- (B) Suffer or permit the licensed premises to become disorderly, or permit any profane, obscene or indecent language thereon;
 - (C) Allow loitering on the sidewalks or premises

§ 112.08 REVOCATION.

A violation of any law or ordinance by the licensee, owner or operator under this article shall be grounds for revocation of the license and permit by the Board of Commissioners. Prior to revocation of the license and permit, the Board of Commissioners shall hold a hearing, of which reasonable notice shall be given to the licensee. (81'Code, §3-21) See Public Hearing Regs.

§ 112.09 APPLICATION FOR PERMIT.

No person shall operate a Billiard Hall in the corporate limits of the Town without first obtaining a special use permit from the Board of Commissioners. Any person desiring a permit required by the provisions of this subchapter shall file a special use application with the Town Manager.

BINGO HALLS

§ 112.10 DEFINITION.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BINGO HALL. Any room of any description in which Bingo games are played or which include any apparatus or paraphernalia for the playing of Bingo and which is conducted as a public place of business for profit. (Ord. Passed 5-21-96)

§ 112.11 EMPLOYEE'S ACTS IMPUTED TO EMPLOYER.

The acts and conduct of the agents and employees of the operator of a Bingo Hall shall be deemed the acts and conduct of the operator. (Ord. Passed 5-21-96)

§ 112.12 HOURS OF OPERATION.

It shall be unlawful for the operator of a Bingo Hall or for any employee thereof to keep his/her Bingo Hall open, or to operate the Bingo Hall, between the hours of 2:00 a.m. and 7:00 a.m. (Ord. Passed 5-21-96)

§ 112.13 MINORS.

Minors will be allowed within the premises of a Bingo Hall in accordance with the Franklinton Curfew Ordinance, § 130.07. (Ord. Passed 5-21-96)

§ 112.14 EMPLOYMENT OF FELON.

It shall be unlawful for the operator of a Bingo Hall or for any employee thereof to have been convicted of a felony and have not had his/her citizenship restored. (Ord. Passed 5-21-96)

§ 112.15 APPLICATION FOR PERMIT.

No person shall operate a Bingo Hall in the corporate limits of the Town without first obtaining a special use permit from the Board of Commissioners. Any person desiring a permit required by the provisions of this subchapter shall file a special use application with the Town Manager.

§ 112.16 – 112.19 RESERVED.

DANCE HALLS

§ 112.20 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

DANCE HALL. Any hall room or building used in whole or in part for dancing to the music of an orchestra, radio, piano, jukebox, or any other musical instrument, whether mechanical or otherwise, for which a charge is made to those attending, whether the charge is in the form of admission or entrance dues paid to the person conducting the establishment, or whether the charge is a cover charge or proceeds derived from the placing of coins in mechanical instruments. ('81 Code, § 3-36)

§ 112.21 APPLICATION FOR PERMIT.

No person shall operate a Dance Hall in the corporate Limits of the Town without first obtaining a special use permit from the Board of Commissioners. Any person desiring a permit required by the provisions of this subchapter shall file a special use application with the Town Manager.

One time dances or special events shall follow the regulations as stated in the Town of Franklinton Code of Ordinances for Special Events. ('81 Code, § 3-38) (Am. Ord. §97.70)

§ 112.22 ISSUANCE OF PERMIT CONDITIONAL.

No permit shall be issued under the provisions of this subchapter unless satisfactory evidence is presented that the dance in question will be conducted in an orderly manner and in accordance with the provisions of this code and other ordinances of the Town and laws of the State. ('81 Code, § 3-39)

§ 112.23 REVOCATION OF PERMIT.

A permit issued under the provisions of this subchapter maybe revoked by the Town Manager at any time for the violation, by the permittee, of any applicable provision of this code, State law, or Town ordinance, rule or regulation. ('81 Code, § 3.-40)

§ 112.24 PARKING.

The operator of a dance hall shall provide adequate off-street parking for persons attending dances. ('81 Code, § 3-41)

§ 112.25 – 112.29 RESERVED.

COMMERCIAL RECREATION GAME ROOM

§ 112.30 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

COMMERCIAL RECREATION GAME ROOM. Any commercial building where the sole use is conducted as a commercial recreation game room to include no more than three (3) pool tables, age appropriate video and arcade games or which include any apparatus or paraphernalia for the purpose of recreational game play and which is conducted as a public place of business for profit.

§ 112.31 LOCATION UPON FIRST OR GROUND FLOOR.

No commercial recreation game room shall be located upon any floor of a building other than the first or ground floor.

§ 112.32 EMPLOYEE'S ACTS IMPUTED TO EMPLOYER.

The acts and conduct of the agents and employees of the operator of a commercial recreation game room shall be deemed the acts and conduct of the operator.

§ 112.33 PROHIBITED ACTS.

It shall be unlawful for any commercial recreation game room operator or public entering thereof to:

- (A) Sell or serve alcoholic beverages in the game room or on the premise.
- (B) Allow smoking of cigarettes, cigars, pipes or other paraphernalia pertaining to tobacco or other agents in the game room.
 - (C) Allow profanity.
 - (D) Allow gambling to play a game for money or property.
 - (E) Allow loitering on the sidewalks or premises.

§ 112.34 HOURS OF OPERATION.

It shall be unlawful for the operator of a commercial recreation game room or for any employee thereof to keep his commercial recreation game room open, or to operate the commercial recreation game room, between the hours of 2:00 a.m. and 7:00 a.m.

§ 112.35 VIEW INTO GAME ROOM.

All commercial recreation game rooms must have clear windows; it shall be unlawful for the operator thereof or for any employee of the operator to permit any screens or other obstructions to be so placed in a manner as to prevent the interior of the commercial recreation game room from being plainly visible from the street front.

§ 112.36 USE OF PREMISES AS A PRIVATE CLUB.

In prosecutions under this subchapter, it shall be no defense that the premises where the violation is alleged to have occurred was conducted during prohibited hours as a private club, if at any other time the premises is conducted as a public place of business.

§ 112.37 PERMIT REQUIRED.

No person shall operate a commercial recreation game room in the Town without first obtaining a special use permit from the Board of Commissioners.

§ 112.38 APPLICATION FOR SPECIAL USE PERMIT.

Any person desiring a permit required by the provisions of this subchapter shall file an application with the Town Manager. An application can be obtained from the Town Hall and shall include the name of the person proposing to operate the commercial recreation game room, the location of the proposed commercial recreation game room and the name of the owner of the building wherein the commercial recreation game room will be operated.

§ 112.39 REVOCATION OF PERMIT.

A permit issued under the provisions of this subchapter may be revoked by the Town Manager at any time for the violation, by the permittee, or any applicable provision of this code, State law, or Town ordinance, rules or regulations.

§ 112.40 PARKING.

A commercial recreation game room shall have adequate off-street parking for customers of the commercial recreation game room.

§ 112.41 – 112.44 RESERVED.

BARS

§ 112.45 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

BAR. Is a business or establishment that sells alcoholic beverages for immediate on-premises consumption. Bars that are part of an amusement establishment, including but not limited to, billiard halls, dance halls and bowling alleys and shall require a special use permit. Bars that are apart of full service restaurants shall be a permitted use within a zoning district that permits restaurants provided that such sale of alcohol is in compliance with §114.04.

§ 112.46 HOURS OF OPERATION.

All Bar establishments may open at 7:00 a.m. Monday through Sunday and shall close no later than 2:00 a.m. the following day. No person other than the owner, operator or

employees shall be permitted on the premises from that hour until 7:00 a.m. the following morning.

§ 112.47 MINORS.

No person under the age of eighteen years shall be permitted in an establishment that is permitted as a bar in which the only component of service is to serve alcoholic beverages.

No owner, proprietor or operator of any such establishment shall permit a violation of the foregoing section within his establishment. (*Ref: Chapter 112: Amusements*)

§ 112.48 REQUIREMENTS.

Any establishment serving alcoholic beverages shall be located at least 50 feet from a church or public school or church school in accordance with the North Carolina ABC Commission.

Bars shall comply with all North Carolina ABC, business and zoning regulations.

Smoking is prohibited in all bars. (NC GS §130A; Article 32)

INTERNET SWEEPSTAKES CAFÉ

§ 112.50 INTENT.

In the development and adoption of this Section, it is recognized that some uses can have objectionable characteristics if not properly monitored, thereby having a deleterious impact upon property values, public safety, and the quality of life. The purpose of these regulations is to preserve the integrity and character of internet cafes, to deter the spread of urban blight, to protect the public from activities prohibited by state law.

§ 112.51 DEFINITIONS.

As used in this Section only, the following terms shall be defined as set forth below. All other terms shall have their customary meaning

INTERNET CAFÉ. An internet café is a place where one can use a computer with Internet access, usually for a fee, either per hour or minute; or with a pass for a day or month, etc. It may serve as a regular café as well, with food and drinks being served. This definition does not include internet sweepstake cafes.

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ELECTRONIC GAMING DEVICE. Any electronic device (computers, terminals, etc) that is capable of visually displaying information to sweepstake entrants in the form of game play, or simulated game play, including but not limited to:

A video poker game or any other kind of video playing card game.

A video bingo game.

A video craps game.

A video keno game.

A video lotto game.

Eight liner.

Video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player.

INTERNET SWEEPSTAKES. Any game, advertising scheme or plan, or other promotion, which, with or without payment of any consideration, a person may enter to win or become eligible to receive any prize, the determination of which is based upon chance.

§ 112.52 PERMITTED ZONING DISTRICT.

Internet sweepstakes cafes shall be permitted in C3H Commercial Highway Districts as a special use, subject to the requirements of this section.

§ 112.53 RESTRICTIONS ON USE OF ELECTRONIC DEVICES.

No electronic gaming device shall be used for sweepstake activities prohibited by State law.

§ 112.54 AGE RESTRICTION.

Pot-of-gold.

An adult manager 18 years or older shall be on duty during business hours.

§ 112.55 HOURS OF OPERATION.

- (A) Hours of operation shall be limited to 8:00 am to 12:00 midnight.
- (B) Fridays and Saturdays evening hours may be extended to 2:00 am.

(C) Hours of operation may be reduced or extended as a conditions of a Special Use Permit.

§ 112.56 SIGNAGE.

- (A) In addition to the sign regulations of the zoning ordinance, signs shall not obstruct the view of electronic devices from exterior of the building.
- (B) Window signs shall cover no more than 25% of the window surface area. (Ord. adopted on 08/16/2011)

Sexually Oriented Businesses/Adult Establishments

§ 112.60 PURPOSE.

To prevent or minimize the adverse secondary impacts that the location and operation of adult establishments can have on crime rates and neighboring property values while preserving the federal constitutional protection afforded to non-obscene but sexually explicit speech.

§ 112.61 DEFINITIONS.

ADULT ESTABLISHMENTS. Any businesses or enterprises (to include but not limited to adult bookstores or video stores, adult live entertainment businesses, adult massage parlors) that have as one of their principal business purposes or as a significant portion of their business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities defined in this section.

ADULT BOOKSTORE OR ADULT VIDEO STORE. An establishment having a substantial or significant amount (25% or more) of its publications or materials distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section. Such publications or materials shall include books, magazines or other periodicals, video tapes or compact or digital video discs, or other photographic, electronic, magnetic, digital, or other imaging medium or any sexually-oriented devices as defined in this section.

ADULT LIVE ENTERTAINMENT. Any performance of or involving the actual presence of real people that exhibits specified sexual activities or specified anatomical areas, as defined in this section.

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ADULT LIVE ENTERTAINMENT BUSINESS. Any establishment or business (including nightclubs, bars, private clubs) wherein adult live entertainment is shown for observation by patrons.

ADULT MOVIE THEATRE. An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by patrons therein. "Adult motion picture theatre" does not include any adult mini motion picture theatre as defined in this section.

ADULT MINI-MOVIE THEATRE. An enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by patrons therein.

MASSAGE. The manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.

MASSAGE BUSINESS. Any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors.

SEXUALLY ORIENTED DEVICES. Any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

SPECIFIED ANATOMICAL AREAS.

- (A) Less than completely and opaquely covered:
 - (1) Human genitals, pubic region,
 - (2) Buttock, or
 - (3) Female breast below a point immediately above the top of the areola;
- (B) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES.

(A) Human genitals in a state of sexual stimulation or arousal;

- (B) Acts of human masturbation, sexual intercourse or sodomy; or
- (C) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

§ 112.62 ZONING STANDARDS.

An adult establishment is permitted as a special use in the C3H district (Commercial Highway District), provided that:

- (A) Such use is located on a lot with frontage on US Highway 1.
- (B) Such use shall not be located within 1000 feet of another adult establishment.
- (C) Such use shall not be located within 500 feet of the following uses:
 Bar, Nightclub, Tavern, Childcare Home or Center, Religious Institutions, Schools, Kindergartens,
 Day Care Nurseries (public or private), Any dwelling unit, Family Care homes, Halfway House,
 Home for the Aged, Parks and Recreation facilities.

The distances provided in this subsection shall be measured by following a straight line from the nearest point on the building or parking areas serving the adult establishment to the nearest point of the lot upon which the restricted use is located.

An adult establishment use shall not occupy the same premises of another principle use.

Except for on-premise identification signs, no advertisement, display, or other promotional materials related to the establishment shall be visible to the public from pedestrian sidewalks, walkways, driveways, or parking areas.

The hours of operation of an adult establishment shall be between the hours of 4:00 pm and 2:00 am of the following morning.

No specified sexual activity shall be within view of the public from beyond the building of the adult establishment at any time.

§ 112.63 LICENSING REQUIREMENTS.

A license shall be required for any adult establishment within the corporate Limits of Franklinton.

License shall be issued by the Franklinton Zoning Department. No license shall be issued until a special use application has been approved by the Board of Commissioners and an investigation is made to determine whether the applicant has complied with this Section and all other applicable requirements of the Town and North Carolina General Statutes. The

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Department may consult with other government agencies to help complete its investigation. Each application shall be charged a fee to help cover the cost of the investigation.

All licenses shall be renewed annually.

Each application must be sworn to and contain the following information:

- (A) Name
- (B) Current address
- (C) Social Security number
- (D) North Carolina Drivers license or other personal identification document acceptable by the Town
 - (E) A current photograph
 - (F) Fingerprint cards
- (G) Proof of age of applicants and of all persons who constitutes a partnership with the applicant.
- (H) If the applicant is a corporation, the above stated information shall be provided for all directors, officers, and principle stockholders.
 - (I) If there are no employees, the application must contain a statement to that effect.
 - (J) The street address of the premises where the establishment shall be located.
- (K) The name and address of any other such business or establishment owned or operated, either wholly or partially, by any person whose name is required to be given in paragraphs (1) and (2) of this subsection.
- (L) A complete statement of any conviction(s) within the proceeding ten (10) years for any person whose name is required to be given in paragraph (1) of this subsection, for violation of any non-vehicle-related statute, law, ordinance or regulation of any government.

As a condition of the issuance and continued validity of this license, each licensee shall maintain documentation including current photographs, positive proof of identity and age for all employees, entertainers, and/or independent contractors or agents who are hired or allowed to work at the business or establishment. Said information shall be made available promptly upon request to any sworn law enforcement officer of any city, Town, County, the State of North Carolina or the United States. Said information shall be maintained and so made

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available for no less than three (3) years after the termination of any such work relationship with licensee.

Licenses issued pursuant to this section shall be in addition to other licenses or permits required by the Town of Franklinton Code of Ordinances or State law.

Licensing of Employees and Independent Contractors in Adult Entertainment Requires an Investigation of Applicants.

No person shall engage in the business of entertaining, rendering or furnishing personal services to others for compensation in an adult establishment or other business defined in section II above as an employee or independent contractor unless such person shall have first applied for and received a regulatory license as required by this section. Said license shall be obtained from the Town of Franklinton and shall be valid for four (4) years from date of issuance.

No license shall be issued until an application is made to the Franklinton Police Department, which shall cause an investigation to be made to determine whether the applicant has complied with this section and all other requirements of the applicable governmental codes, and North Carolina General Statutes. The Police Department shall be assisted in completing this investigation by the other Town departments that oversee the various codes that govern this activity.

No license shall be issued if the application is incomplete or contains a misstatement of fact or false information.

Any owner, licensee, employee, independent contractor, or any person to be engaged in the adult-establishment has been convicted of a felony reasonably related to the legal operation of an adult establishment, including but not limited to sexual misconduct, prostitution, or unlawful use, sale or trafficking in alcohol or drugs or any controlled substances.

The applicant's business fails to conform to all requirements of applicable zoning, building, health, and fire prevention codes and regulations.

The applicant does not meet the conditions or violates any provisions set out in this section.

The licensee, or any agent of the licensee, employs or permits any person to provide services at a licensed establishment of the types regulated by this Ordinance, which person has not been issued the license required by this Ordinance, or whose license under this article has been revoked.

This section may be enforced by any and all remedies provided by applicable state law.

§ 112.64 APPEALS FROM DENIAL OR REVOCATION.

All appeals from the denial or revocation of any license granted hereunder shall be heard by the Franklinton Town Manager or the appropriate designee. Any person or legal entity who is denied said license or whose licensed is revoked must appeal the denial in writing within fifteen (15) days of notice of the denial to the Franklinton Town Manager by filing said appeal with that office.

Following reasonable opportunity to be heard, the Town Manager or the appropriate designee shall promptly make a decision. Thereafter, any aggrieved party may pursue remedies as provided by the laws of North Carolina.

CHAPTER 113: VEHICLES FOR HIRE

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General Provisions

§ 113.01 DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CERTIFICATE. A certificate of public convenience and necessity issued by the Board of Commissioners upon approval of an application from a business or individual owner providing a taxi service. This certificate is required before any vehicle may operate as a taxicab within the Town.

DRIVER. Any person in charge of or operating a taxicab.

DRIVER'S PERMIT. The permit issued by the Town, after examination, authorizing a person to drive a taxicab operating under this chapter.

EXCLUSIVE RIDE SERVICE. A taxi service in which the first passenger or party requests exclusive use of the taxicab.

FOR HIRE. (as defined in G.S. 20-86) Any person engaged in the business of transporting persons or property for compensation.

LIMOUSINE. Any "for hire" chauffeur-driven vehicle with the ability to carry passengers which by prearrangement transports passengers for compensation, and does not accept passengers indiscriminately between points or along highways, provided that such compensation is not computed by means of a meter and that the vehicle carries an appropriate registration plate to distinguish it from taxicabs.

- **LOG.** A daily record prepared by the driver of all trips made by the taxicab which he/she operates showing the place of origin and destination of each trip and the amount of the fare for each trip.
- **OWNER.** Any person to whom a certificate of public convenience and necessity for the operation of a taxicab has been issued.
- **RATE CARD.** A card issued by the Town to the owner of a taxicab service for display in each taxicab describing the schedule of fares charged.
- **SHARED-RIDE.** A taxi service in which two or more persons, with either different origins or with different destinations, or both, occupy a taxicab at one time.
- **TAXICAB.** Any motorized or non-motorized vehicle, which shall be used for the purpose of carrying, transporting or conveying any person from one place to another for

which services a charge or fee is made. Any taxicab parked or traveling on the streets of the Town shall be subject to the provisions of this article.

TAXIMETER. A mechanical instrument or device, approved by the Town, which is installed in a taxicab for the purpose of computing the fare for a trip upon the basis distance traveled, waiting time, or both, clearly visible for the passenger's information.

§ 113.02 ZONING ADMINISTRATOR TO ENFORCE PROVISIONS.

The Zoning Administrator is given the authority and is instructed to watch and observe the conduct of holders and drivers operating under the provisions of this chapter. Upon discovering a violation of the provisions of this chapter, the Zoning Administrator shall report the same to the Franklinton Police Department who will order or take appropriate action.

§ 113.03 RESPONSIBILITY OF OWNER; COMPLIANCE.

Every owner of a taxicab shall comply with the provisions of this chapter and require that all drivers or chauffeurs driving or proposing to drive any taxicabs for the owner adhere to and at all times conform to the requirements of this chapter. No such owner shall drive or operate any taxicab upon the streets of the city in violation of any of the provisions of this chapter or other ordinances of the Town. Further, no owner shall knowingly permit or cause to be driven or operated upon any of the streets or other public ways of the Town any taxicab belonging to the owner by any driver or chauffeur who has not complied with or who violates any of the provisions of this chapter or other ordinances of the Town relating to the chauffeur or driver.

§ 113.04 FEDERAL STATUTES AND REGULATIONS.

Nothing contained in this chapter shall be construed to relieve or attempt to relieve operators and owners of taxicabs from compliance with any rule, regulation or statute made by the Congress of the United States or promulgated pursuant to authority of any action of the Congress of the United States or other authorized federal agency.

§ 113.05 INFORMATION FILED BY OWNER.

Each owner or operator of a taxicab shall file with the Town his name, business address, home address, and home telephone numbers, a list showing the service numbers and make of all taxicabs owned and operated by him, and the names of all drivers and their license numbers and addresses, and shall within 48 hours after any change in such filed information report such change to the Town.

Regulations

§ 113.11 INSURANCE REQUIREMENT.

The owner of every taxicab and of every other motor vehicle engaged in the business of transporting passengers "for hire" over the public streets of the Town shall furnish and keep in effect for each such taxicab or such other motor vehicle, a policy or policies of insurance as required by G.S. 20-280, as amended. Such policy or policies of insurance (or a duplicate thereof, or a certificate from the agent of the insurance company issuing the policy or policies) shall be filed with the Town as a condition precedent to the operation of any such vehicle over the streets of the Town and the policy or policies of insurance shall, among other things, set forth a description of each and every taxicab operated under the terms of such policy or policies, including the make, model, motor number and serial number of each and every such taxicab.

The license of each car licensed under this section which is not covered by insurance as required in this article shall be immediately revoked.

The owner's permit of the owner of a taxicab that is not covered by insurance as required by this section shall be immediately suspended by the Zoning Administrator.

Any insurance policy filed in accordance with this section shall provide that the same shall not be canceled without first giving five days notice to the Town.

§ 113.12 GENERAL VEHICLE REQUIREMENTS.

In addition to all other applicable regulations in this article, all taxicabs shall be equipped and maintained in satisfactory condition so as to comply with the state statutes, and the provisions of this Code, and other requirements shall be:

The vehicle must meet the state's vehicle safety inspection requirements at all times.

- (A) The vehicle will have four doors, two leading to the passenger's compartment and two leading into the driver's compartment and so constructed that they may be opened from the inside and outside without delay. Passenger vans are excluded from this Section however, passenger vans shall have a minimum of 3 doors, two leading into the drivers compartment and 1 leading to the passengers compartment and so constructed that they may be opened from the inside and outside without delay.
- (B) The vehicle will have all openings (windows and doors) in proper working condition.
- (C) The vehicle will be equipped with a working heater to heat the interior sufficiently in the winter and an air conditioner sufficient to cool the interior in hot weather.

- (D) The vehicle will have all windshields and side and rear glasses clear and free of all cracks and clear of dirt or obstructions to clear view.
- (E) The vehicle will have the front and rear bumpers and all attachments of the original manufacturer's design in its proper place and in proper repair.
- (F) The vehicle headlights and rear lights shall be in good working condition as installed by the original manufacturer.
- (G) The vehicle shall have removable floor mats of rubber or other nonabsorbent and washable material.
 - (H) The vehicle shall have the exterior and the interior cleaned on a regular basis.
- (I) The vehicle will be equipped with all safety devices in proper working order as designed by the original equipment manufacturer and any other items that may be required for the convenience and safety of the passengers as required by the Town, by the state or by applicable laws and regulations of the United States.
 - (J) The vehicle must be equipped with a seat belt for the driver and each passenger.
- (K) The vehicle shall be operated in a sanitary and clean condition. The certificate holder shall keep the body of the taxicab; both interior and exterior, in a safe condition at all times. The vehicle's general appearance shall be kept as close as possible to the manufacturer's original appearance and repair with respect to sheet metal and finish of the vehicle's normal wear and tear.
- (L) The vehicle will be equipped with a two-way communication device in order to receive direct communication with the dispatching office. Two-way radio system or cellular phone system is sufficient communication devices.

§ 113.13 INSPECTION OF VEHICLES.

Before a taxicab may be operated under a certificate of convenience and necessity issued under this chapter, the owner thereof shall cause the same to be delivered to and inspected by the Zoning Administrator, who shall examine the same to determine that the cab is mechanically and structurally in good repair and working order and will not be unsafe to operate.

In addition to the inspection required above prior to the initial operation of a taxicab, the Zoning Administrator shall have the right, at any time, after displaying proper identification, to enter into or upon any taxicab for the purpose of inspection and of ascertaining whether or not the taxicab is unsafe or in any way unsuitable for taxicab service.

Any taxicab that is wrecked damaged or deemed unsafe for carrying passengers shall not be allowed to carry passengers until the certificate holder makes the necessary repairs and alterations to ensure that public safety is not jeopardized. The certificate holder will be required to notify the Town of such situations and to have the affected taxicab inspected by the Town before returning the taxicab to service.

§ 113.14 MAINTENANCE RECORD.

Every owner is required to institute a system of regular monthly inspections of all taxicabs and equipment owned and operated by him or her and to keep all such taxicabs and their equipment in proper and safe repair and in good sanitary condition at all times. A record of all such inspections shall be kept by the owner and shall be available to the Zoning Administrator at all times.

§ 113.15 MAXIMUM NUMBER OF PASSENGERS.

The driver of the taxicab shall permit no more passengers than the number of seatbelts, which are available for use within the vehicle.

§ 113.16 VEHICLE IDENTIFICATION.

- (A) Company name. No person shall operate or cause to be operated within the Town any taxicab carrying passengers for hire from place to place within the city unless the correct name and telephone number of the person or firm owning and operating the vehicle is clearly and visibly marked on both sides of the vehicle in letters at least four inches high.
- (B) Vehicle number. The Zoning Administrator shall assign a number to each taxicab permitted to be operated under the provisions of this chapter. The numbers shall begin with number one and shall run consecutively from that number up to and including the total number of taxicabs authorized to be operated in the city. No two taxicabs shall be numbered the same, it being the intent of this section that the numbering of taxicabs in the Town shall not be according to the number operated by any individual firm or owner, but shall be according to the total number of taxicabs authorized to be operated within the Town. The assigned number shall be placed on the sides of the taxicab, immediately below the required name and telephone number, in numerals four inches high. No person shall operate more than one taxicab with the same numbers marked thereon.

§ 113.17 MOST DIRECT ROUTE.

Any taxicab driver employed to carry a passenger to a definite point shall take the most direct route possible that will carry the passenger safely and expeditiously to his or her destination.

§ 113.18 DISPLAY.

Every taxicab operated within the Town will display the fare either by meter or by chart, which will be visible to the passenger, showing the cost of the fare.

§ 113.19 PASSENGER RIGHTS.

Once a passenger has engaged a taxicab, the driver shall commence transportation of that passenger immediately and shall engage in no other service prior to termination of such transportation. If prior to commencement of such transportation, another person solicits transportation by the same vehicle, such person shall not be granted transportation without the consent of the passenger who first engaged the taxicab.

§ 113.20 REFUSAL OF PASSENGERS.

The driver of a taxicab shall not refuse to carry a person who is orderly and presents no apparent or immediate hazard to the driver by any means to include health and sanitation anywhere in the Town or to any point beyond the Town for the legal fare. It shall be unlawful for a driver to fail to go to a location and carry orderly passengers after the dispatching system has, at the driver's request, identified the pickup location of the passenger.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

§ 113.26 CERTIFICATE REQUIRED.

No person shall operate or permit a taxicab or limousine owned or controlled by him or her to be operated as a vehicle for hire upon the streets of the Town without having first obtained a certificate of public convenience and necessity from the Board of Commissioners.

§ 113.27 APPLICATION.

Each application for a certificate shall be on a form prescribed by the Town, and shall set forth all information required by the Board of Commissioners to determine whether or not the certificate applied for should be issued. Each such application shall be presented to the Town and <u>verified by the applicant under oath</u> and shall be filed with the Zoning Administrator, who shall present it to the Board of Commissioners at their next regularly scheduled meeting.

§ 113.28 PUBLIC HEARING.

Each application for a certificate shall be scheduled for a hearing if the Board of Commissioners determines additional information is needed, at the next regular

meeting of the Board. The applicant shall be notified by the Zoning Administrator by mail, at the business address set forth in the application, of the date and time of such hearing, such notification to be sent at least ten days before the date set for the hearing.

The Zoning Administrator shall also, within the same time, notify all persons who, at that time hold certificates with the Town, of the date and time of such hearing and the name of the applicant.

§ 113.29 ACTION OF BOARD OF COMMISSIONERS; FACTORS.

No certificate shall be granted under this chapter unless the Board of Commissioners shall after hearing, declare by resolution that public convenience and necessity require the proposed taxicab service.

In determining whether the public convenience and necessity require the granting of a certificate under this chapter, the Board of Commissioners shall, among other things, take into consideration the following factors:

- (A) Whether or not the public convenience and necessity satisfies the requirement for public safety and availability within the Town.
- (B) The financial responsibility of the applicant and the likelihood of the proposed service being permanent, responsible and satisfactory.
 - (C) The number and condition of taxicabs to be operated.
 - (D) The schedule of the proposed rates and fares to be charged.
 - (E) The experience of the applicant in the taxicab business.
 - (F) Consideration of G.S. 160A-304, Regulation of Taxis.
 - (G) Such other relative facts as may be deemed necessary and advisable.

The burden of proof under this chapter shall be upon the applicant to establish the existence of public convenience and necessity for the operation of the vehicle for hire specified in the application, and all other facts required for the granting of a certificate required by this chapter.

§ 113.30 APPLICATION FEE.

There is hereby established a charge which shall be in an amount set out in the Town fee schedule for each application for a certificate of public convenience and necessity, which is for the purpose of helping to defray the expenses involved in

checking the application and for services rendered by the Town personnel and others in connection therewith. This charge shall be in addition to and not in lieu of any license tax or other charge imposed by this code and shall not be refundable.

§ 113.31 ISSUANCE OF CERTIFICATE.

The Board of Commissioners shall grant a certificate of public convenience and necessity when the applicant has established to the Board's satisfaction that the public convenience and necessity would be served thereby, that the requirements of this chapter are complied with and that the factors considered by the Board, as set out in §113.29, favor the issuance of a certificate. Each certificate may contain such terms and conditions, as the Board of Commissioners may consider desirable to impose for the public welfare, safety, convenience or necessity.

The Board of Commissioners shall deny a certificate to an applicant who does not establish to the Board's satisfaction that the issuance of a certificate would serve the public convenience and necessity, or when, in the considered opinion of the Board, the applicant would not comply with the provisions of this chapter, or that the factors considered by the Board, as set out in §113.29, favor disapproval of the application.

§ 113.32 SUSPENSION; REVOCATION.

The Board of Commissioners may at any time after a public hearing suspend and revoke any certificate of public convenience and necessity issued by authority of this Chapter for any one or more of the following causes:

- (A) Failure to operate a taxicab specified in the certificate in such manner as to serve the public adequately, safely and efficiently.
- (B) Failure to carry insurance as required by this chapter and in accordance with G.S. 20-280.
 - (C) Failure to maintain a vehicle in good repair and in accordance with §113.12.
 - (D) Failure to pay the full amount of the tax imposed upon each taxicab when due.
- (E) Repeated and persistent violation, by the taxicab drivers employed by the holder of the certificate, of the state law or provisions of this code and other ordinances of the Town relative to traffic and safety, alcoholic beverages or prostitution.
 - (F) Failure to report accidents.
 - (G) Discontinued operations for more than 30 days.

No certificate of public convenience and necessity shall be revoked until the owner has had at least five days' notice by personal service or registered mail of the charges against him or her, and of the time and place of the hearing. If, after the hearing, it is found that the owner is guilty of one or more of the offenses listed in this chapter, the Board shall have the power to suspend or revoke the certificate or to condition a revocation upon compliance of its order within any time fixed by the Board.

§ 113.33 CHANGE OF OWNERSHIP; TRANSFER.

A certificate of public convenience and necessity required by this chapter is not transferable without the consent of the Board of Commissioners. Applications for transfer of a certificate shall be filed in the same manner as an application for a certificate of public convenience and necessity. The proceeding upon such application for transfer shall be the same as those described for the issuance of a certificate except that the question of public convenience and necessity need not be approved.

§ 113.34 REPLACEMENT VEHICLE.

Whenever an owner sells or transfers title to any taxicab for which certificates have been granted and the vehicle is retired from use as a taxicab, and, within the 30 days after such sale or transfer, purchases another taxicab, the Board of Commissioners shall, as a matter of right, upon written notification to the Board within 30 days of the purchase, issue new certificates for the operation of no greater number of taxicabs than those so sold or transferred, provided the owner has complied with all the provisions of this chapter.

Any owner whose taxicabs, for which certificates have been granted, have been destroyed involuntarily or who voluntarily destroys any taxicab, will, as a matter of right, upon written notification to the Board of Commissioners within 30 days after the destruction, be issued new certificates for the operation of no greater number of taxicabs than those so destroyed, upon satisfactory evidence presented to the Board of the destruction, provided the owner has complied with all the provisions of this chapter.

§ 113.35 WHEN VEHICLE RETIRED AND NOT REPLACED.

Any owner who permanently retires any taxicab from service and does not replace the same within 30 days thereof shall immediately surrender any certificate granted for the operation of the taxicab to the Board of Commissioners, and the owner may not secure any additional certificate for the operation of a taxicab without having first made application therefor in the manner provided in this chapter.

RATES

§ 113.41 RATES AND FARES.

The rates of fare to be charged for taxicab service by any person owning, operating or controlling any motor vehicle operated as a taxicab within the Town shall be in accordance with the rates to be fixed from time to time by the Board of Commissioners. Fare increases will only be granted by the Board when just reasons for increases have been shown.

§ 113.42 FARE SCHEDULE IN VEHICLE.

No owner of a taxicab shall allow or permit the same to be driven or operated upon the streets of the Town unless there is posted and kept posted in the taxicab a printed schedule of fares and rates not exceeding the maximum amounts prescribed by the Board of Commissioners. The schedule of fares and rates shall be in such form and posted in such places in the interior of the taxicab as to be noticed by all customers.

§ 113.43 EXCESS FARE; FAILURE TO PAY.

It shall be unlawful for the owner or driver of any taxicab to charge or collect from any passenger any fare in excess of the rates prescribed by the Board of Commissioners or for any passenger to fail or refuse to pay any fare charged in accordance therewith. However, this section is not intended to prohibit a taxicab passenger from granting a gratuity to the taxicab driver.

When requested by a passenger, the driver in charge of the taxicab shall deliver to the passenger a legible receipt showing the taxicab operating permit number, the date and the amount of the fare paid. Refusal on the part of the driver to deliver such receipt shall constitute a violation of this chapter.

§ 113.44 DAILY MANIFEST; RIGHT OF INSPECTION.

Every driver shall maintain a daily manifest upon which shall be recorded all trips made each day, the time, place of origin and destination of each trip, the number of passengers and amount of fare for each trip; manifests shall be furnished to the driver by the operating certificate holder.

Every certificate permit holder shall retain and preserve, all drivers' manifests in a safe place for at least 180 days, and the same shall be made available upon demand for inspection by the Franklinton Police Department or the Zoning Administrator.

DRIVER'S LICENSE

§ 113.51 REQUIRED.

In order to ensure that persons employed in the vehicle for hire business are of sound judgement and character, no person shall drive any taxicab carrying passengers for hire from place to place within the Town, or from within the Town to places not in the Town, without having a current and valid chauffeur's license issued by the Department of Motor Vehicles and a taxicab driver permit, referred to in this chapter as a "permit", issued to him by the Town.

§ 113.52 INFORMATION ON APPLICATION.

An application for a driver's permit required by this subchapter shall be filed with the Zoning Administrator. The application shall be in writing, signed and sworn to by the applicant, and shall contain the following specific information:

- (A) The full name, age and address of the applicant.
- (B) The length of time of his or her residence in the Town and in North Carolina, and whether or not he or she is a citizen of the United States.
- (C) His or her full personal description, including his or her height, weight, race, color of eyes, complexion, color of hair and body and facial marks and defects, if any.
 - (D) His or her previous experience in driving taxicabs.
- (E) Whether or not he or she has been convicted of a felony and full information concerning the same, and whether he or she has a police record of any conviction of a misdemeanor, either in this Town or any other place, and full information concerning the same.
- (F) Whether he or she has been convicted of any violation of the law in the operation of a motor vehicle, and if so, full information concerning the same; whether he or she has been convicted of any law relating to the sale, possession or use of illegal drugs or intoxicating beverages, and if so, full information concerning the same; and whether he or she has been convicted under any law relating to morals, and if so, full information concerning the same.
- (G) The number and date of issuance of the state chauffeur's license issued to the applicant.
 - (H) Such other information as the Board of Commissioners may require.

§ 113.53 PHOTOGRAPHS AND FINGERPRINTS.

Each applicant for a permit under this subchapter shall have his or her full fingerprints taken and shall have his or her photograph, both front and side view, with his or her hat on and hat off, taken, and such fingerprints and photographs of the applicant shall be filed with the Zoning Administrator and shall accompany the written application and shall constitute a part of the application.

§ 113.54 PHYSICIAN'S CERTIFICATE.

Each applicant for a permit under this subchapter shall submit with his or her application as a part thereof a certificate of a reputable physician in the Town showing that, after examination, the applicant is not afflicted with any disease, physical disability or physical affliction which could materially impair his or her ability to drive a taxicab in a safe manner. The certificate shall also specifically state the condition of the hearing and eyesight of the applicant.

§ 113.55 INVESTIGATION OF APPLICANT; ISSUANCE.

The applicant's criminal history shall be investigated by the Franklinton Police Department prior to the issuance of a driver's permit. The Zoning Administrator shall issue a permit as he or she may deem consistent with the public interest, welfare, morals and safety.

The following factors shall be deemed sufficient grounds for refusing to issue a permit or for revoking a permit already issued:

- (A) Conviction of a felony against this state or conviction of any offense against another state which would have been felony if committed in this state.
- (B) Violation of any federal or state law relating to the use, possession or sale of alcoholic beverages or illegal drugs.
- (C) Addiction to or habitual use of alcoholic beverages or narcotic or barbiturate drugs.
 - (D) Violation of any federal or state law relating to prostitution.
 - (E) Non-citizenship in the United States.
 - (F) Habitual violation of traffic laws or ordinances.

The Zoning Administrator may likewise refuse to issue the permit to anyone whose physical or mental condition is such that, in the opinion of the Zoning Administrator, it would be unsafe to passengers or to the public generally for such a person to drive a

taxicab. The Zoning Administrator may, in any case, refuse to issue the permit when the issuance of the same would be contrary to the public morals, welfare or safety.

§ 113.56 FALSE STATEMENTS.

Any false statement of material fact made in an application for a permit shall invalidate the permit issued thereon, and it shall be unlawful for any applicant knowingly to make any such false statement.

§ 113.57 DISPLAY OF PERMIT.

The driver of every taxicab shall at all times while operating such taxicab, prominently post and display in such taxicab, so as to be visible to the passengers therein, the issued permit to drive a taxicab.

§ 113.58 EXPIRATION AND RENEWAL.

Each person who has been issued a permit, which is in effect, shall present such permit to the Zoning Administrator during the month of June of each calendar year for the purpose of having the permit validated. All permits not presented for validation in accordance with this chapter shall become null and void on July 1 of each Calendar year.

Franklinton – Business Regulations

APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Name of Firm		Telephone No			
Firm address					
(street no. &	name)	(City)	(State)	(Zip Code)	
Names of Owner(s)/Partner	(s)				
Address(1)					
(street no. & name))	(City)	(State)	(Zip Code)	
Address(2)		 			
(street no. & name))	(City)	(State)	(Zip Code)	
Telephone No(s)					
Does public convenience an no	d necessity req	uire propose	ed taxicab service?	yes	
If yes, give reasons					
Describe financial responsib being permanent, responsib			elihood of the pro	posed service	
Proof of Liability Insurance _					
Address	(Insurance Co. N	lame)	Telephone No.	(Agent Name)	
(Street no. & Name)	(City)	(State)	, s. sp s		
Number of vehicles	Type of vehi	icle			

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

General Provisions

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GENERAL PROVISIONS

§ 130.01 DISCHARGE OF FIREARMS OR EXPLOSIVES.

It shall be unlawful for any person to shoot any kind of firearms, air rifles, air guns or air pistols within the Town limits. This section shall not extend to acts done by persons in defense of personal property. ('81 Code, § 10-4) Penalty, see § 10.99

Any person who willfully and maliciously damages any real or personal property of any kind or nature, being at the time occupied by another, by the use of any explosive or incendiary device or material is guilty of a felony punishable as a Class D felony.

Statutory reference:

Authority of Town to restrict the use of explosives, see G.S. § 160A-183 Use of explosives, see G.S. § 14-49 et seq.

§ 130.02 INJURY TO PROPERTY OF TOWN.

It shall be unlawful for any person to willfully or wantonly injure, damage, vandalize, deface, trespass upon, break or injure any property belonging to the Town. ('81 Code, § 10-10) Penalty, see § 10.99

§ 130.03 REFUSAL TO PAY FOR MEALS.

It shall be unlawful for any person to enter any restaurant or public eating house and order or obtain food or drink and depart there from without paying for same. ('81 Code, § 10-17) Penalty, see § 10.99

§ 130.04 REFUSAL TO PAY FOR RIDES.

It shall be unlawful for any person to ride in a public vehicle without paying for the ride unless by consent of the driver of the vehicle. ('81 Code, § 10-18)

§ 130.05 ADMISSION FEES.

It shall be unlawful for any person to see any show or public entertainment for which a fee is charged without paying admission, or to attempt to do so, without the permission of the operator of the event. ('81 Code, § 10-19) Penalty, see § 10.99

§ 130.06 OBSTRUCTION OF PUBLIC WAYS PROHIBITED.

It shall be unlawful for any person to obstruct pedestrian or vehicular traffic on the streets or sidewalk, or at any other public place. ('81 Code, § 10-24) Penalty, see § 10.99

§ 130.07 CURFEW.

- (A) *Curfew for minors.* It is a curfew violation for a child 13 17 years of age to be in a public place:
 - (1) After 11:00 p.m. and before 6:00 a.m. on Saturday or Sunday;
 - (2) After 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, Thursday or Friday;
 - (3) Before 6:00 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.
- (4) It is a curfew violation for a child under 13 years of age to be in a public place after 10:00 p.m. or before 6:00 a.m. on any day.
 - (B) **Exemptions.** This section does not apply to a child who is:
 - (1) Accompanied by his parent, guardian or custodian;
 - (2) Accompanied by an adult specified by his parent, guardian or custodian;
- (3) Carrying out an errand or other lawful activity as directed by his parent, guardian or custodian; or
- (4) Participating in, going to, or returning from: Lawful employment; or a lawful athletic, educational, entertainment, religious or social event. Penalty, see § 10.99

§ 130.08 LITTERING ON SIDEWALK.

It shall be unlawful for any person to throw or place any litter or other refuse upon any of the sidewalks or streets of the Town. ('81 Code, § 10-26) Penalty, see § 10.99 **Statutory reference:** Littering, see G.S. § 14-399

§ 130.09 RESERVED.

§ 130.10 BEGGING OR SOLICITING ALMS.

It shall be unlawful for any person to beg or solicit alms, money, or other things of value on the streets or other thoroughfares, or in any public place in the Town. ('81 Code, § 10-28) Penalty, see § 10.99

Statutory reference:

Authority for section, see G.S. § 160A-179

§ 130.11 INTERFERENCE WITH A FIREFIGHTER OR POLICE OFFICIER PROHIBITED.

No person shall interfere with any firefighter or police officer in the discharge of his duty. ('81 Code, § 8-47) Penalty, see § 10.99

§ 130.12 CONCEALED WEAPONS.

- (A) No person shall carry a concealed handgun in any Town governmental buildings or on Town property. An appropriate notice of said prohibition shall be posted in a conspicuous place on each Town-owned building notifying persons of said prohibition against carrying a concealed handgun therein.
- (B) This section shall not apply to law enforcement or other governmental personnel acting within the scope of their employment. (Ord. Passed 11-21-95)

§ 130.13 POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE.

- (A) It shall be unlawful to:
- (1) Consume malt beverages or unfortified wine on the public streets in Town on properties owned, occupied, or controlled by the Town.
- (2) Posses open containers of malt beverages and unfortified wine on public streets in Town and on properties owned, occupied, or controlled by the Town.
- (3)Possess open containers of malt beverages and unfortified wine on public streets, alleys, or parking lots which are temporarily closed to regular traffic for special events.

Violations of this section shall be charged under G.S. § 18B-300(C).

§ 130.14 DWELLING IN VEHICLES PROHIBITED

Franklinton – General Offenses

It shall be unlawful for any person to utilize a vehicle within the corporate limits of the Town of Franklinton as a dwelling or living area, whether on public or private property. This section shall apply to all motorized and non-motorized vehicles whether operable or inoperable. A violation of this section shall subject the offender to the penalty(s) set forth in § 10.99 Penalty.

§ 130.15 CAMPING AND OTHER ACTIVITY PROHIBITED ON PUBLIC PROPERTY.

(a) Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed them in this subsection, except where the context clearly indicates a different meaning:

Camp or camping means the use of town property for living accommodation purposes such as sleeping or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or storing personal belongings, or placing any tents or a temporary shelter on Town property for living accommodation purposes.

Temporary Shelter means tents, tarps, or any type of structure or cover that provides partial shelter from the elements.

- (b) It shall be unlawful for anyone to camp on any public property owned by the Town including public right of ways and sidewalks.
- (c) Camping as defined in this section is deemed a public nuisance, and the Town may summarily remove a temporary shelter, bedding or personal belongings.
- (d) It shall be unlawful to light or use a campfire or bonfire on public property except as may be specifically authorized by a permit.
- (e) This article shall not apply to temporary, recreational camping within areas that have been approved by the Town for such recreational camping activities.
- (f) A violation of this section shall subject the offender to the penalty(s) set forth in § 10.99 Penalty.

(Am. Ord. passed 1-17-23)

§ 130.16 LITTERING PROHIBITED.

- (A) It shall be unlawful within the Town of Franklinton to willfully litter, to improperly dispose of trash, or to negligently allow trash to be deposited within the public right-of-way, sidewalks, streets, public easements, publicly owned properties, or in any area that is not designated for the disposal of trash or refuse. For the purposes of this section trash or refuse shall be defined as any material whether organic or inorganic that would normally be disposed of in a trash or recycling receptacle, deposited in a permitted disposal facility, or deposited within a landfill or recycling facility. It shall be the duty of all motorists to properly secure their load to prevent trash, materials, or debris from improperly exiting the vehicle within any of the areas described above.
- (B) It shall be unlawful for any person to illegally dump, dispose of, or to otherwise place trash or material whether organic or inorganic upon a parcel of land without the express consent of the property owner.
- (C) Penalty A violation of any provision of this section shall subject the offender to a civil penalty in the amount of \$250 which shall be paid within 10 days of receipt via cash or check during normal business hours at the Franklinton Town Hall.
- (D) Appeal A person cited for a violation of this section may submit a written appeal to the Chief of Police along with any evidence, specific details, or other relevant information. Written appeals must be made within 10 days of receipt of a civil penalty and submitted in writing at the Franklinton Town Hall. A decision on the written appeal will be made within 10 days of the receipt of the appeal. Appeals are at the discretion of the Chief of Police and will be considered based up on the evidence and information submitted.
- (E) Enforcement Ths section shall be enforceable by any Town Staff member that is tasked with enforcing the Town of Franklinton Code of Ordinances.

(Ord. Amend. Passed 10-15-2024)

EMERGENCY CURFEW

§ 130.25 DEFINITION.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

STATE OF EMERGENCY. A "State of Emergency" shall be deemed to exist whenever, during times of great public crisis, disaster, rioting, catastrophe or similar public emergency, for any reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives, safety and property. ('81 Code, § 10-46) (Ord. Passed 4-8-68)

Statutory reference:

States of emergency, see G.S. § 14-288.12 et seq. Cooperation between law-enforcement agencies, see G.S. § 160A-288

§ 130.26 WHEN IMPOSED.

In the event of an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the Town, or threatening damage to or destruction of property, the Board of Commissioners are hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of such a State of Emergency and, in order more effectively to protect the lives, safety and property of people within the Town, the define and impose a curfew applicable to all persons within the jurisdiction of the Town. ('81 Code, § 10-47) (Ord. Passed 4-8-68)

Statutory reference: Authority for section, see G.S. § 14-288.12

§ 130.27 SPECIFICATION OF TIME AND PLACE; EXEMPTIONS.

The Board of Commissioners is hereby authorized and empowered to limit the application of a curfew imposed under this article to any area specifically designed and described within the corporate limits of the Town, and to specify hours of the day or night; and to exempt from the curfew police officers, firefighters, doctors, nurses and other classes of persons that may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the Town. ('81 Code, § 10-48) (Ord. Passed 4-8-68)

§ 130.28 PROHIBITED ACTS.

During the existence of a proclaimed State of Emergency, when a curfew has been imposed, persons are prohibited and restricted from the following activities:

- (A) Movements of people in public places;
- (B) The operation of offices, business establishments, and other places to or from which people may congregate;
 - (C) The possession, transportation, sale, purchase, and consumption of alcoholic beverages;
- (D) The possession, transportation, sale, purchase, storage, and use of dangerous weapons and substances, and gasoline;
- (E) Activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the State of Emergency.

 ('81 Code, § 10-49) (Ord. Passed 4-8-68) Penalty, see § 10.99

Statutory reference:

Authority for above section, see G.S. § 14-288.12

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§ 130.29 RESCISSION.

The Board of Commissioners shall proclaim the end of a state of emergency and curfew as soon as circumstances warrant. ('81 Code, § 10-50) (Ord. Passed 4-8-68) **Statutory reference:**

Rescission or expiration of proclamation of emergency, see G.S. § 14-288.16

CHAPTER 150: BUILDING REGULATIONS

Section

Building Code

150.01	Building Code Adopted
150.02	Residential Building Code
150.03	Plumbing Code
150.04	Electrical Code
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Primary Fire Limits

150.06	Establishment
150.07	Restrictions
150.08	Movers to Leave Building Free Of Fire Hazards

Insulation and Energy Conservation

150.09 Authority 150.10 License Required 150.11 Penalty

BUILDING CODE

§ 150.01 BUILDING CODE ADOPTED

The latest edition including all subsequent amendments of the North Carolina Building Code, as adopted by the North Carolina Code Council is hereby adopted by reference as fully as set forth herein to the extent such code is applicable for safe and stable design, methods of construction, minimum standards, and use of materials in building or structures hereinafter erected, enlarged, altered, repaired, or otherwise constructed or reconstructed. A certified copy of the code shall be placed and remain on file in the office of the Town Clerk.

Statutory Reference: North Carolina State Building Code, see G.S. §143-138

§ 150.02 RESIDENTIAL BUILDING CODE

There is hereby adopted by the Board of Commissioners for the purpose of prescribing regulations governing the construction of one and two-family residential buildings in the Town, that certain code known and designated as the North Carolina Residential Building Code as adopted by the North Carolina Building Code Council, being particularly the current edition and all future revisions thereof and incorporated in this section as fully as if set out at length in this section and the provisions thereof shall be controlling within the jurisdiction of the Town. A certified copy of code shall be placed and remain on file in the office of the Town Clerk.

Statutory Reference: North Carolina State Building Code, see G.S. §143-138

§ 150.03 PLUMBING CODE

The current edition including all subsequent amendments of the North Carolina Plumbing Code, as adopted by the North Carolina Building Code Council, is hereby adopted by reference as fully set forth herein. The provisions of the plumbing code shall apply to one- and two- family residences as well as all other building and structures within the Town. ('81 Code, §5-38)

Statutory Reference: North Carolina State Building Code, see G.S. §143-138

§ 150.04 ELECTRICAL CODE

The latest edition including all subsequent amendments of the North Carolina Electrical Code, as adopted by the North Carolina State Building Code Council, is hereby adopted by reference as fully set forth herein. A certified copy has been placed and shall remain on file in the office of the Town Clerk. ('81 Code, §5-51)

Statutory Reference: North Carolina State Building Code, see G.S. §143-138

§ 150.05 TOWN TO USE BUILDING INSPECTOR

The Franklin County Department of Planning and Development, certified Building Inspectors, is authorized to administer and to enforce the North Carolina Building Code, including the Fire Prevention Code, within the territorial jurisdiction of the Town and to charge the applicants fees for the required inspections.

The Town will continue to issue and approve zoning applications. The fees for permits required by this subchapter shall be paid in advance before any permit is issued under the provisions of this subchapter. (81 Code, §5-22) (Res. Passed 6013-83; Am. Res. Passed 3-19-91)

Statutory Reference: Town required to enforce state building code, see G.S. Chapters 143, 153A, 160A

PRIMARY FIRE LIMITS

§ 150.06 ESTABLISHMENT

The primary fire limits shall be shown on the fire zone map as approved and modified from time to time by the Board of Commissioners. A copy of this map shall be maintained in the office of the Town Clerk. {'81 Code, §5-23} (Ord. Passed 6-4-79)

Statutory Reference: Authority of town to establish primary and secondary fire limits, see G.S. §160A-435 Failure to establish primary fire limits, see G.S. §160A-438

§ 150.07 RESTRICTIONS

Within the primary fire limits of the Town, as established and defined by §150.06, no frame or wooden building or structure or addition thereto shall hereafter be erected, altered, repaired, or moved (either into the limits or from one place to another within the limits), except upon the permit of the Inspection Department approved by the State Commissioner of Insurance, nor any materials used in the construction of outside walls except brick, stone, cement, and/or other fireproof material, and no wooden materials shall be used in covering any building in the area. ('81 Code, §5-24) (Ord. Passed 6-4-79) Penalty, see §150.11

§ 150.08 MOVERS TO LEAVE BUILDING FREE OF FIRE HAZARDS

Statutory Reference: Similar provisions, see G.S. §160A-436

All persons who shall vacate a building within any fire limits of the Town shall within 24 hours thereafter remove all trash there from constituting a fire hazard. ('81 Code, §5-25)

Cross-Reference: Fire prevention and protection, see Ch. 94

INSULATION AND ENERGY CONSERVATION

§ 150.09 AUTHORITY

This subchapter is adopted pursuant to G.S. §160A-194. ('81 Code, §5-236) (Ord. Passed 3-13-78)

Statutory Reference: Authority of town to regulate and license businesses, trades, and the like, see G.S. §160A-194

§ 150.10 LICENSE REQUIRED

- (A) No person may be considered for the installation, alteration or restoration within the Town any insulation or other materials or energy utilization equipment designed or intended to meet the State Building Code requirements for insulation and energy utilization standards who is not either:
- (1) Licensed as a contractor to do the proposed work under N.C.G.S. Chapter 87;
- (2) Working under the supervision of a registered architect or professional engineer;
 - (3) An owner working upon his own building; or
- (4) Licensed under this subchapter ('81 Code, §5-237) (Ord. Passed 3-13-78) Penalty, see §150.11 **Statutory Reference:** Contractors, see G.S. Chapter 87
- (B) The fee for a license under this subchapter shall be as set and amended from time to time by the Board of Commissioners. ('81 Code §5-238) (Ord. Passed 3-13-78)
- (C) Every person desiring a license under this subchapter shall submit an application for the license to the Zoning Administrator conforming to the requirements provided in this subchapter ('81 Code, §5-239) (Ord. Passed 3-13-78) Penalty, see §150.11
- (D) Each application for a license under this subchapter shall include forms provided by the Town Clerk.
- (E) Each application for a license under this article shall contain the following information:
- (1) Name and home address of the applicant, if an individual, or home office address, if a corporation or partnership;
 - (2) Names and home addresses of the partners, if a partnership;

Franklinton – Land Usage

- (3) Names and home addresses of the officers and director; if a corporation;
 - (4) Place where the proposed business is to be located;
- (5) Complete record of all convictions of felonies or fraud by the applicant or any employee, partner, officer or director of the applicant, whether in this or any other state or jurisdiction. ('81 Code, §5-241) (Ord. Of 3-13-78)

§ 150.11 PENALTY

Any person violating any provision of this chapter or the codes adopted by reference herein shall be fined not more than \$500 for each offense. Each 30 days that such violation continues shall constitute a separate and distinct offense. ('81 Code, §5-16) (Ord. Passed 6-4-62)

Statutory Reference: Violations of North Carolina Building Code, see G.S. §143-138

CHAPTER 151: MINIMUM HOUSING CODE

Section

151.01 Purpose
151.02 Definitions
151.03 Minimum Standards for Basic Equipment and Facilities
151.04 Responsibilities of Persons
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151.08 Enforcement; Service of Notices and Orders
151.09 Petition to District or Superior Court by Owner
151.10 Methods of Service
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151.99 Penalty

§ 151.01 PURPOSE.

Pursuant to G.S. 160A-441, it is hereby found and declared that there exist in the Town of Franklinton and its Extraterritorial Jurisdiction (ETJ) dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the Town and its ETJ. This chapter establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities except as provided in this article.

§ 151.02 DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter.

AGENT. Agent shall mean any person, firm or corporation who is responsible for the management, maintenance, operation, renting, leasing or sale of any property, or who makes application for or seeks a permit or certificate on behalf of the owner of any property or who in any other way represents the owner or the property in any particular case.

BASEMENT. Basement shall mean a portion of a building which is located partly or wholly underground, having direct access to light and air from windows located above the level of the adjoining ground.

CELLAR. Cellar shall mean a portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

DWELLING. Dwelling shall mean any building, structure, manufactured home, mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoined therewith, except that it does not include any temporary housing as hereinafter defined.

DUPLEX. Duplex shall mean a structure containing two (2) complete and separate dwelling units with a common wall or ceiling and under one (1) roof.

DWELLING UNIT. Dwelling unit shall mean one (1) or more rooms physically arranged as to create an independent housekeeping establishment with separate facilities for cooking, sleeping, and toilet under one roof.

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EQUIVALENT DWELLING UNIT. Equivalent dwelling unit for purposes of computing the means of egress required by this chapter, the following shall be considered equivalent to a dwelling unit: Any room or rooms not provided with cooking facilities and occupied by four (4) persons within a rooming house, fraternity, sorority, rest home, or any dwelling however styled.

EXTERMINATION. Extermination shall mean the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the inspector.

FAMILY. Family shall mean an individual or two (2) or more persons related by blood to the third degree lineally or the fourth degree collaterally, marriage, or adoption living together in a dwelling unit; or a group of not more than four (4) persons, one (1) or more of whom is not related by blood as described above, marriage, or adoption to the other. A *family may* include five (5) or fewer foster children placed in a family foster home licensed by the State of North Carolina.

GARBAGE. Garbage shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE ROOM. Habitable room shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces.

INFESTATION. Infestation shall mean the presence, within or around a dwelling, of any insects, rodents or other pests in such numbers as to constitute a menace to the health, safety or welfare of the occupants or to the public.

INSPECTOR. Inspector shall mean the Building Inspector or his authorized inspectors. In addition to the powers and responsibilities granted in this article, the Building Inspector or his designee shall exercise the powers and responsibilities given to "public officer" in G.S. 160A-441 et seq.

MEANING OF CERTAIN WORDS. Whenever the words "dwelling, dwelling unit, rooming house, rooming unit, premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

MULTIPLE DWELLINGS. Multiple dwellings shall mean any dwelling containing more than two (2) dwelling units.

OCCUPANT. Occupant shall mean any person, regardless of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.

OPERATOR. Operator shall mean any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

OWNER. Owner shall mean any person who alone, or jointly, or severally with others:

- (A) Shall have title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- (B) Shall have charge, care or control of any dwelling or dwellings unit, as owner or agent of the owner, or as executor, administrator, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter, and of rules and regulations adapted pursuant thereto, to the same extent as if he were the owner.

PLUMBING. Plumbing shall mean and include all of the following supplied facilities and equipment: Gas pipes, gas burning equipment, water pipes, garbage disposal units, grease traps, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supply fixtures, together with all connections to water, sewer or gas lines.

ROOMING HOUSE, LODGING HOUSE OR TOURIST HOME. A type of equivalent dwelling located in a dwelling which contains room or room(s) without cooking facilities that are rented to the general public as a whole to more than four (4) persons.

ROOMING UNIT. Rooming unit shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

RUBBISH. Rubbish shall mean combustible and noncombustible waste materials, except garbage and ashes, and the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust.

SUPPLIED. Supplied shall mean paid by, furnished or provided by, or under the control of, the owner or operator.

TEMPORARY HOUSING. Temporary housing shall mean any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than thirty (30) consecutive days.

UNFIT FOR HUMAN HABITATION. Unfit for human habitation shall mean that conditions exist in a dwelling, dwelling unit, rooming house or rooming unit which violate or do

not comply with one (1) or more of the minimum standards of fitness or one (1) or more of the requirements established by this article.

State law reference: Minimum housing standards, G.S. 160A-441 et seq.

§ 151.03 MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES.

No person shall occupy or lease to another for occupancy, any dwelling unit for the purpose of human habitation which does not comply with the following requirements:

- (A) Basic equipment and facilities.
- (1) Kitchen sinks. Every dwelling unit shall contain a kitchen sink in good working condition and properly connected to a water and sewer system approved by the Building Inspector. The kitchen sink shall have hot and cold running water.
- (2) Water closets and lavatories. Every dwelling unit shall contain a room separate from the habitable rooms which affords privacy and which is equipped with a flush water closet and a lavatory basin in good working condition and properly connected to a water and sewer system approved by the Building Inspector. Access to such room shall be through a weather tight area.
- (3) Bathtub and showers. Every dwelling unit shall contain a room which affords privacy to a person and shall contain a bathtub or shower in good working condition and properly connected to a water and sewer system approved by the Building Inspector.
- (4) Hot water facilities in new construction. All new construction shall have adequate hot water heating facilities.
- (5) Hot water facilities in existing structures. Existing structures shall have installed adequate hot water heating facilities by or before the year 1961.
- (B) Heating. Every dwelling and dwelling unit shall have facilities for providing heat in accordance with the following:
- (1) Central and electric heating systems. Every central or electric heating system shall be of sufficient capacity to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 65° to 68° F measured three feet above the floor during ordinary winter conditions. ('81 Code, §5-81)
- (2) Other heating facilities. Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues, gas vents or other facilities to which heating appliances may be connected to heat all

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habitable rooms with a minimum temperature of 65° to 68° F measured (3) three feet above the floor during ordinary winter conditions. ('81 Code, §5-82)

- (C) Light and ventilation. No person shall occupy as owner-occupant, or let to another for occupancy, any dwelling or dwelling unit, for the purpose of living therein which does not comply with the following requirements:
- (1) Every existing habitable room shall be provided with a window with a minimum of six (6) square feet or a gravity or mechanical ventilation system capable of providing one (1) air change every thirty (30) minutes approved by the Building Inspector.
- (2) Every habitable room shall have at least one (1) window or skylight which can easily be opened directly to the outside, or such other device as will adequately ventilate the room. The total of openable window area in every habitable room shall be equal to at least forty-five (45) per cent of the minimum window area size or minimum skylight-type window size, as required in subsection (1) of this section, except where there is supplied some other device affording adequate ventilation and approved by the Building Inspector.
- (3) Every habitable room of every building shall contain at least two (2) separate floors or wall-type electric convenience outlets and every water closet compartment, bathroom, laundry, furnace, room entrance, exit way, and public hall shall contain at least one (1) supplied ceiling or wall-type electric light fixture. Every such outlet and fixture shall be connected to the source of electric power in a safe manner. The electrical service serving a dwelling unit shall be of sufficient capacity to carry the demand load as determined by the electrical code of the Town of Franklinton.
- (4) Every public hall and stairway in every multiple dwelling serving five (5) or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than four (4) dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.
- (D) Sanitary maintenance, safety and structural standards. No person shall occupy as owner-occupant, or lease to another for occupancy, any dwelling or dwelling unit for the purpose of living therein which does not comply with the following requirements:
 - (1) Screening for insects and rodents.
- (a) During the period of April 1 to October 1, inclusive, for protection against mosquitoes, flies and other insects, every door opening directly from the dwelling or dwelling unit to outdoor space shall have supplied screens and a self-closing device; and every window or other device with openings to outdoor space used, designed or intended to be used for ventilation shall be likewise provided with screens, provided that dwelling units containing central air conditioning equipment or window-type air conditioning units which will

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satisfactorily cool and ventilate the dwelling unit are not required to have screens in door and window openings.

- (b) Every basement or cellar window used or intended to be used for ventilation and every other opening which might provide an entry for rodents, shall be supplied with a screen or such other device as will effectively prevent their entrance.
 - (c) Screens shall be provided for all enclosed crawl space vents.
- (d) Screens shall fit openings snugly and shall not be torn or otherwise defective.
- (e) Screens shall not be permanently fixed to the window frame or sash by nail, staples or screws.

(2) Foundations.

- (a) A foundation wall shall support the building at all points and shall be free of holes and cracks which would admit rodents, water or dampness to the interior of the building or which lessen the capability of the foundation to support the building.
 - (b) Crawl space shall be graded so as to prevent any water standing.
 - (c) Footings shall be sound and have adequate bearing capacity.
 - (d) Piers shall be sound with no loose mortar or masonry.
- (e) No pier in which the plumb line from top center falls outside the middle one-third (1/3) of the pier base shall be allowed.

(3) Floors.

- (a) There shall be no decayed, termite-damaged, fire-damaged, broken, overloaded or sagging sills that adversely affect the structural integrity of the building framing system.
 - (b) Sills shall be properly supported and reasonably level.
- (c) Joists shall not be decayed, overloaded, sagging or broken so as to adversely affect the structural integrity of the floor framing system.
- (d) Flooring shall be weather tight without holes or cracks which permit excessive air to penetrate rooms.

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- (e) Flooring shall be reasonably smooth. There shall be no decayed or fire damaged material so as to adversely affect the structural integrity of the flooring system.
 - (f) There shall be no loose flooring.
 - (g) Floors shall be reasonably level.
- (h) Every water closet compartment floor surface and bathroom floor surface shall be constructed and maintained so as to permit such floor to be easily kept in a clean and sanitary condition. The floor surfaces shall be covered with a non-absorbent material.
 - (4) Walls, exterior.
- (a) There shall be no wall in which the plumb line from the top of the wall to the bottom exceed two (2) inches nor shall the slope of the wall exceed 2% slope, unless approved by a Licensed Architect or Licensed Engineer in a sealed affidavit attesting to the safety of the structure.
 - (b) Walls shall be structurally sound.
- (c) There shall be no broken, cracked or fire damaged structural members.
- (d) All siding shall be weather tight, with no holes or excessive cracks or decayed boards which permit excessive air to penetrate rooms.
 - (e) There shall be no loose siding.
- (f) Exterior surfaces not inherently resistant to deterioration shall be treated with a protective coating or covering and maintained in good repair to prevent deterioration.
 - (5) Walls, interior.
- (a) There shall be no interior wall in which the plumb line from the top of the wall to the bottom exceed two (2) inches nor shall the slope of the wall exceed 2% slope, unless approved by a Licensed Architect or Licensed Engineer in a sealed affidavit attesting to the safety of the structure. The interior finish shall be free of holes and cracks which permit excessive air to penetrate rooms.
- (b) No loose plaster, loose boards or other loose wall materials shall be allowed.

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intrusion.	(c) Only standard building materials shall be used on a wall to prevent air
structural members a	(d) There shall be no decayed or termite-damaged studs.(e) There shall be no broken or cracked studs or other broken or cracked allowed.
(6) Ce	eilings.
excessive sagging, or	(a) There shall be no joists which are decayed, broken, or experiencing improperly supported.
penetrate rooms.	(b) There shall be no holes or excessive cracks which permit air to
ceiling finish.	(c) There shall be no loose plaster, boards, gypsum wall board, or other
	(d) Ceiling joist shall be structurally sound.
air intrusion.	(e) Only standard building materials shall be used on a ceiling to prevent
(7) Ro	pofs.
supported.	(a) There shall be no rafters which are decayed, broken, or improperly
	(b) There shall be no rafters that have been damaged by fire.
(8) Ex	terior and interior windows and doors.
shall have no broken	(a) All exterior windows and doors shall be reasonably weather tight, glass, and shall have adequate operable locks and hardware.
	(b) All interior doors and hardware shall be in good repair.
(9) M	eans of egress.

- (a) One or two dwelling units. There shall be a minimum of one (1) exit from each dwelling unit when the travel distance to the exit does not exceed seventy-five (75) feet.
- (b) Three or more dwelling units. The exit provisions shall conform to the requirements as established by the North Carolina State Building Code.
- (c) Platforms, steps, and/or handrails provided to serve exits shall be maintained in safe condition as established by the North Carolina State Building Code.
- (d) There shall be a safe, continuous and unobstructed exit way from the interior of the building to the exterior at street or grade level.

(10) Porches.

- (a) Foundation, floor, ceiling and roof shall be equal to standards set forth above, except sills, and joists need not be level if providing drainage of floors; floors need not be weather tight; ceiling height shall be not less than seven (7) feet.
- (b) Roof post and attached railings if provided, shall be structurally sound.
- (c) Every porch, terrace or entrance platform located at least thirty (30) inches above the adjacent finished grade shall be equipped with railings not less than thirty-six (36) inches high.

(11) Stairs and steps.

- (a) Stairs and steps shall not be decayed and shall be in good repair.
- (b) Every rail shall be firmly fastened and maintained in good condition.
- (c) No flight of stairs more than one (1) inch out of its intended position or pulled away from supporting or adjacent structures shall be allowed.
 - (d) Supports shall not sag and shall be structurally sound.
 - (e) Every stair tread shall be sound and securely fastened.
- (f) Open sides of stairs with a total rise of more than thirty (30) inches above the floor or grade below shall have handrails not less than thirty-four (34) inches in height measured vertically from the nosing of the treads.

(12) Electrical.

- (a) No receptacles, ceiling fixtures, light switches or other fixtures shall be broken or hanging loose.
 - (b) All switches and receptacles shall be safely operable.
- (c) Every habitable room of every building shall contain not less than two (2) separate floor or wall-type electric convenience outlets and every water closet compartment, bathroom, laundry, furnace, room entrance, exit way, and public hall shall contain at least one (1) supplied ceiling or wall-type electric light fixture. Every such outlet and fixture shall be connected to the source of electric power in a safe manner and grounded.
- (d) There shall be installed in every habitable room, bathroom, laundry room, hallway, stairway and furnace room at least one (1) supplied ceiling or wall type electrical light fixture provided, further, that the ceiling light fixture may be omitted in living room and bedrooms, provided three (3) electrical convenience receptacles are installed, one (1) of which is controlled from a wall switch.
 - (e) There shall be no unsafe wiring.
 - (f) There shall be no bare wires, open joints or spliced cables.
 - (g) No circuits shall be overloaded.
 - (h) Fuses shall be sized correctly and not bridged.
 - (i) There shall be no open spaces in the panel box.
 - (13) Plumbing.
- (a) Every plumbing fixture and water and waste pipe shall be the correct size and properly installed and maintained in good sanitary working condition.
- (b) The plumbing system shall be connected to the Town of Franklinton's sanitary sewer system where available; otherwise, the plumbing system shall be connected onto an approved septic tank.
 - (c) Water closets shall not be broken.
 - (d) Water closets shall not be loose from the floor or leaking.
 - (e) Tub and shower stall floors and walls shall be watertight.
 - (f) Fixtures shall not be cracked or broken.

- (g) There shall be adequate facilities for furnishing hot and cold water to each tub or shower, lavatory, and kitchen sink.
- (h) There shall be installed a water closet, tub or shower, lavatory and kitchen sink for each dwelling unit.
 - (i) There shall be separate toilet facilities for each dwelling.
 - (j) Toilet and bathing facilities shall be protected from the weather.
- (k) All water piping shall be protected from freezing by proper installation in protected space.
- (I) Sewer and water lines shall be properly supported, with no broken or leaking lines.

(14) Heating.

- (a) All occupied dwelling units shall have heating facilities, central or other.
- (b) Heating facilities, central or other, shall be properly installed and maintained in good and safe working condition and capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments.
- (c) During the months of October through May, every occupied dwelling unit shall have a heating appliance with a minimum capacity of twelve thousand (12,000) BTU output so as to heat at least one (1) habitable room, excluding the kitchen, to a minimum temperature of sixty-five (65) degrees Fahrenheit, measured three (3) feet above the floor with an outside temperature of twenty-five (25) degrees Fahrenheit. As an alternative, a professional engineer or a North Carolina licensed HVAC contractor may provide calculations that the room designated can be heated accordingly by a heating unit with lesser capacity.
- (d) Every bathroom or water closet compartment which does not open directly from a room having a source of heat shall be provided with an electrical receptacle or gas connection.
- (e) All electric, gas and oil burning equipment installed on the premises shall be of a type approved by Underwriters' Laboratories, Inc., or by American Gas Association and shall be installed in accordance with the provisions of the manufacturers' recommendations or listing.
 - (f) Chimneys shall have no loose bricks or mortar.

- (g) Flues shall have no holes.
- (h) There shall be no hanging masonry chimneys.
- (i) Thimbles shall be grouted in tight.
- (j) Thimbles shall be installed high enough for the stovepipe to rise one-fourth (1/4) inch per foot minimum.
- (k) Fireplaces shall be used only for supplemental heat and not for basic heating.
- (I) Hearth extension shall be made of non-combustible materials at least twenty (20) inches deep and twelve (12) inches beyond each side of the fireplace opening.
- (m) Combustible materials shall not be within six (6) inches of either side of the fireplace opening or within twelve (12) inches above the fireplace opening.
- (n) If the fireplace opening is closed, the closure shall be of noncombustible material and airtight.
 - (o) Any stove shall be within six (6) feet of the thimble serving it.
- (p) No combustible materials shall be within twelve (12) inches of stovepipe.
 - (q) No stovepipe shall be routed through combustible walls.
- (r) Portable kerosene heaters are not acceptable as a permanent source of heat but they may be used as a supplementary unit in one- and two-family dwelling units. No owner shall be held to be in violation of this Code when an occupant is using a kerosene heater as a source of heat as long as the owner has complied with appropriate ventilation.
 - (15) Smoke detectors.
- (a) Every owner of a rental residential dwelling unit lawfully constructed without smoke detectors shall install a smoke detector mounted on the ceiling or wall on every level, at a point centrally located in the corridor or area giving access to each group of rooms used for sleeping purposes and in common stairwells in each dwelling unit.
- (b) The owner of every rental residential unit where a smoke detector is installed shall maintain and insure that the smoke detector is kept in good working order at all times. If a battery-operated smoke detector is used, the batteries shall be replaced at least once per year. *State law reference:* 1991 Session laws Chapter 321 §2.

- (16) Effective functioning of facilities and equipment. Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed, installed or connected that it will function safely and effectively and shall be maintained in satisfactory working condition. It shall be unlawful for any person willfully or maliciously to deposit any material in any toilet, bathtub, sink or other plumbing fixture which may result in the obstruction of any sanitary sewer. This liability on the part of the occupant shall not relieve the owner of the responsibility of cleaning any resultant blockage.
- (17) Temporary interruption of service. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this chapter to be removed from or shut off from or disconnected from any occupied dwelling leased or occupied by him, except for such temporary interruption as may be necessary while actual repair or alterations are in process or during temporary emergencies when discontinuances of services are approved by the Building Inspector.
- (18) Space, use and location. No person shall occupy or lease to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:
- (a) Required space in dwelling units. Every dwelling unit shall comply with the following Schedule of Required Minimum Habitable Room Floor Area.

SCHEDULE OF REQUIRED MINIMUM HABITABLE ROOM FLOOR AREA:

Number of Persons	Required Minimum Habitable Floor Area in Square Feet
1	150
2	260
3	370
4	480
5	590
6	700
7	780
8	850
9	950
10	1,050
11	1,560
12	1,670
13	1,780

14	1,890
15	2,000
16 and greater	an additional 150 for each additional occupant

The living or principal room shall contain not less than one hundred fifty (150) square feet; the first bedroom shall contain not less than one hundred (100) square feet; and all other bedrooms, if any, shall contain not less than seventy (70) square feet each. The above floor areas shall be calculated only for habitable rooms.

- (b) Each habitable room shall have at least seventy (70) square feet.
- (c) Height of ceiling. At least one-half (1/2) of the floor area of every habitable room shall have a ceiling height of at least seven (7) feet; and the floor area of that part of any room where the ceiling height is less than five (5) feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.
- (d) Access to bath and bedrooms. No dwelling or dwelling unit constructed after adoption of this chapter, containing two (2) or more sleeping rooms, shall have such room arrangements that access to bathroom or water closet compartment intended for use by occupant of more than one (1) sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment.
- (e) Cellars. No cellar space shall be used as a habitable room or dwelling unit.
- (f) Basement. No basement space shall be used as a habitable room or dwelling unit, unless:
- (1) The floor and walls are impervious to leakage of underground and surface runoff water.
- (2) The total window area in each room is equivalent to the minimum window area size as identified in this chapter.
- (3) Such required minimum window area is located entirely above the grade of the ground adjoining such window area.

- (4) The total of openable window area in such habitable room is equivalent to at least the minimum requirements in this chapter, except where there is supplied another device for adequate ventilation approved by the Building Inspector.
- (g) Access limitation of dwelling units to commercial uses. No habitable rooms, bathroom or water closet compartment which is accessory to a dwelling unit shall open directly into or shall be used in conjunction with a food store, barber or beauty shop, doctor's or dentist's examination or treatment room, or similar room used for public purposes.
 - (19) Minimum standards for rooming houses or bed and breakfast inns.
- (a) Every person who operates a rooming house or bed and breakfast inn or who occupies or lets to another for occupancy any rooming unit in any rooming house or bed and breakfast inn shall comply with the provision of every section of this article except as provided in the following subsections:
- (1) At least one (1) water closet, lavatory basin, and bathtub or shower properly connected to an approved water and sewer system and in good working condition shall be supplied for each three (3) rooms within a rooming house or bed and breakfast inn wherever the facilities are shared. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.
- (2) Every water closet, lavatory basin and bathtub or shower required by subsection (1) shall be located within the rooming house or bed and breakfast inn and within a room or rooms which afford privacy and are separate from the habitable rooms.
- (3) Access for every water closet, lavatory basin and bathtub or shower required by subsection (1) shall be not more than one (1) story removed from any of the persons sharing such facilities and from a common hall and without going outside the rooming house or bed and breakfast inn or through any other occupied room therein.
- (4) Every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) person shall contain at least fifty (50) square feet of floor area for each occupant thereof.
- (5) The operator of every rooming house or bed and breakfast inn shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house or bed and breakfast inn; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house or bed and breakfast inn is contained is leased or occupied by the operator.

(6) Every rooming house or bed and breakfast inn owner shall provide a resident management. The resident manager's name and room number shall be placed on the primary entrance of the dwelling. The resident manager shall be required to maintain an up-to-date floor plan of the rooming house or bed and breakfast inn. This floor plan shall be posted in a conspicuous location.

- (7) Every rooming house or bed and breakfast inn shall have a public telephone located within a central area of the dwelling.
 - (8) Every rooming house shall have a kitchen facility.
 - (9) There shall be no living or principal room required.
- (10) Every rooming house operator shall conform to the license requirements of this Code.

§ 151.04 RESPONSIBILITIES OF PERSONS.

Occupants of dwellings, multi-family dwellings and dwelling units, and owners or operators of rooming houses shall be responsible for maintenance thereof as provided in this section.

- (A) Responsibilities of occupants.
- (1) Cleanliness. Every occupant of a dwelling unit shall keep that part of the dwelling unit and premises thereof which he occupies, controls or uses in a clean and sanitary condition.
- (2) Disposal of rubbish. Every occupant of a dwelling unit shall dispose of all his rubbish in a clean and sanitary manner as required by this Code.
- (3) Disposal of garbage. Every occupant of a dwelling unit shall dispose of his garbage in a clean and sanitary manner by placing it in the garbage disposal facilities as required by this Code.
- (4) Use and operation of supplied plumbing fixtures. Every occupant of a dwelling unit shall keep the supplied plumbing fixtures therein clean and sanitary and shall be responsible for the exercise of reasonable care in their proper use and operation.
- (5) Installation and care of plumbing fixtures furnished by occupant. Every plumbing fixture furnished by the occupant of a dwelling unit shall be properly installed and shall be maintained in good working condition, kept clean and sanitary, and free of defects, leaks or obstructions.

- (6) Extermination in single dwelling units. The occupants of a dwelling unit or multi-family dwelling shall be responsible for such extermination as when required by this code.
 - (B) Responsibilities of property owners.
- (1) Exterior property areas. No person shall occupy as owner-occupant or let to another for occupancy any dwelling unit for the purpose of living therein, or premises, which does not comply with the following requirements. The inspector shall cause periodic inspections to be made of dwelling premises to secure compliance with these requirements:
- (a) Sanitation. All exterior property areas shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage.
- (b) Grading and drainage. All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or within any building or structure located thereon.
- (c) Noxious weeds. All exterior property areas shall be kept free from species of weeds or plant growth which are noxious or detrimental to the public health.
- (d) Insect and rodent harborage. Every owner of a dwelling or multi-family dwelling shall be responsible for the extermination of insects, rodents, vermin or other pests in all exterior areas of the premises; except that the occupant shall be responsible for such extermination in the exterior areas of the premises of a single-family dwelling. Whenever infestation exists in the shared or public parts of the premises of the other than a single-family dwelling, extermination shall be the responsibility of the owner.
- (e) Accessory structures. All accessory structures including detached garages shall be maintained structurally sound and in good repair.
- (2) Interior areas. No person shall occupy as owner-occupant, or lease to another for occupancy, any dwelling, multi-family dwelling, dwelling unit, rooming house, rooming unit or portion thereof, for the purpose of living therein which does not comply with the following requirements:
- (a) Sanitation. The interior of every dwelling and multi-family dwelling used for human habitation shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage. Rubbish, garbage, and other refuse shall be properly kept inside temporary storage facilities as required in this chapter.
- (b) Insect and rodent harborage. Buildings used for human habitation shall be kept free from insect and rodent infestation, and where insects or rodents are found

they shall be promptly exterminated by acceptable processes which will not be injurious to human health.

- (c) Extermination in buildings. Every owner of a dwelling or multi-family dwelling shall be responsible for the extermination of insects, rodents, vermin or other pests whenever infestation exists in two (2) or more of the dwelling units, or in the shared or public parts of the structure.
- (d) Extermination in single dwelling units. The occupants of a dwelling unit in a dwelling or multi-family dwelling shall be responsible for such extermination within the unit occupied by him whenever the occupants dwelling unit is the only unit in the building that is infested.
- (e) Responsibility of owner. Notwithstanding the foregoing provisions, whenever infestation of rodents is caused by failure of the owner to maintain any dwelling or multi-family dwelling in a rodent proof condition, extermination of such rodents shall be the responsibility of the owner.

§ 151.05 POWERS OF DEPARTMENT.

- (A) The Code Enforcement Officer and/or Building Inspector is hereby designated to exercise the powers prescribed by this article.
- (B) The Code Enforcement Officer and/or Building Inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article, including the following powers in addition to others herein granted:
- (1) To investigate the dwelling conditions in the Town in order to determine which dwellings therein are unfit for human habitation;
 - (2) To administer oaths, affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examinations, provided such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and
- (4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this article, or to impose such duties upon the regularly appointed plumbing, environmental, heating and air conditioning, and electrical inspectors, as approved by the Building Inspector.

§ 151.06. INSPECTIONS.

- (A) The Code Enforcement Officer and/or Building Inspector is hereby authorized and directed to make inspections to determine the condition of dwellings, dwelling units, rooming units and premises located within the Town and its Extraterritorial Jurisdiction in order that he may perform the duty of safeguarding the health and safety of the occupants of dwellings and of the general public. Should the owner or occupant of any dwelling refuse to permit the officer/inspector reasonable access, such officer/inspector shall proceed to obtain a search warrant pursuant to G.S. 15-27.2.
 - (B) Reserved.
- (C) It shall be unlawful for any owner or the agent of any owner to occupy, rent or offer for occupancy or rent as a dwelling any structure or part thereof, upon which an order to repair, alter or improve, or to vacate and close, or to demolish, has been issued without said owner or agent receiving the authority to do so by the Code Enforcement Officer/Building Inspector after confirmation of the dwelling compliance with the Housing Code. If the dwelling(s) is vacant as a result of prior inspector orders, the owner or agent must first file application for and secure a certificate of housing code compliance from the Code Enforcement Officer/Building Inspector. The Code Enforcement Officer/Building Inspector shall issue a certificate of housing code compliance when, after examination and inspection, it is found that the structure conforms to the provisions of this chapter.
- (D) The following conditions are necessary for the issuance of a certificate of housing code compliance:
- (1) The owner or authorized agent of any dwelling unit vacated after an order to repair or vacate and close has been issued shall apply to the Code Enforcement Officer/Building Inspector for a certificate of housing code compliance prior to the dwelling unit being reoccupied.
- (2) After the repairs have been completed, the property owner or agent shall request a certificate of housing code compliance. The Code Enforcement Officer/Building Inspector shall cause an inspection to be made of the dwelling unit specified in the application.
- (3) If after examination and inspection the dwelling unit is found to conform, a certificate of housing code compliance shall be issued to the owner of the dwelling unit.
- (4) If after examination and inspection the dwelling is not found to conform, the owner of the dwelling unit shall be provided a list of violations that must be corrected before a certificate of housing code compliance may be issued or the dwelling unit occupied.
 - (5) The certificate of housing code compliance shall state:

- (a) The date of issue.
- (b) The address of the dwelling or dwelling unit.
- (c) The name of the person to whom it is issued.
- (d) The certification that the dwelling or dwelling unit complies with all applicable provisions of this chapter.
 - (e) The name of the Building Inspector or Code Enforcement Officer.

§ 151.07 CONFLICT OF REGULATIONS.

Where a provision of this chapter is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or code of the Town, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people of the Town shall prevail. Where a provision of this chapter shall be found to be in conflict with a provision of any other ordinance or code of the Town which establishes a lower standard for the promotion and protection of the health and safety of the people of the Town, the provisions of this article shall prevail and such other ordinance or code is declared to be repealed to the extent that it may be found in conflict with this chapter.

§ 151.08 ENFORCEMENT; SERVICE OF NOTICES AND ORDERS.

- (A) Whenever a petition is filed with the Code Enforcement Officer by at least five (5) residents of the municipality charging that any dwelling is unfit for human habitation or whenever it appears to the Code Enforcement Officer (on his own motion) that any dwelling is unfit for human habitation, the Officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties having an interest in such dwelling including lien holders and tenants, if any, as the same may be determined by reasonable diligence, a complaint stating the charges in that respect and a notice that a hearing will be held before the Officer and Town Manager at the Town Hall Offices not less than ten days nor more than 30 days after the serving of such complaint; that the owner and parties in interest shall be given a right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint.
- (B) If after such notice and hearing the Town Manager and Code Enforcement along with any other agent of the Town determines that the dwelling under consideration is unfit for human habitation because it does not meet the minimum standards of this code, the Officer shall state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the owner and others interested therein an order:

- (1) If the repair, alteration or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling, not to exceed fifty (50) per cent of the value, requiring the owner within the time specified, to repair, alter or improve such dwelling to render it fit for human habitation or vacate and close the dwelling as a human habitation; or
- (2) If the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling, to exceed fifty (50) percent of the value, requiring the owner, within the time specified in any event and not less than ninety (90) days, to repair, alter or improve such dwelling to render it fit for human habitation, or remove or demolish such dwelling.
- (C) Dwellings ordered vacated and closed shall have all outer doors firmly locked and basement, cellar and first-story windows barred or boarded to prevent entry, and shall not again be used for human habitation until a Certificate of Housing Code Compliance has been issued pursuant to this chapter.
- (D) In persona remedy. If the owner of any deteriorated or dilapidated dwelling unit shall fail to comply with an order following the hearing and within the time specified therein, Code Enforcement Officer shall request a resolution from the Board of Commissioners to be issued at its next regular meeting, directing the Town Attorney to institute an action in the District or Superior Court seeking an order directing such owner to comply with the order of the Code Enforcement Officer and in the alternative, authorizing and directing the Town to demolish and remove dilapidated dwellings in the event that the owners fail to comply with the order within reasonable time. The Town Attorney shall seek to recover all costs incurred by the Town as a lien on the property of the owner.

§ 151.09 PETITION TO DISTRICT OR SUPERIOR COURT BY OWNER.

Any person aggrieved by an order by the Officer or a decision rendered by the Board of Commissioners under this chapter shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the District or Superior Court for a temporary injunction restraining the Officer pending a final disposition of the cause, as provided by GS. §160A-446(f). ('81 Code) (Ord. passed 1-23-79; Am Ord. passed 10-16-01)

§ 151.10 METHODS OF SERVICE.

(A) Complaints or orders issued by an officer shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(B) If the identities of any owners or whereabouts of persons are unknown and the same cannot be ascertained by the officer in the exercise of reasonable diligence, or if the owners are known but have refused to accept service by registered or certified mail; the inspector shall make an affidavit to that effect, stating the steps taken to determine and locate the persons of interest, then the serving of such complaint or order upon such owners or persons may be made by publication in a newspaper having general circulation in the Town at least once no later than the time at which personal service would be required. A notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

§ 151.11 PLACARDING PREMISES.

If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the Code Enforcement Officer/Building Inspector may cause such dwelling to be repaired, altered or improved or to be vacated and closed; the Officer/Inspector may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."

The removal of such placard when posted pursuant hereto shall be unlawful. G.S. §160A-443(5) ('81 Code) (Ord. passed 1-23-79) Penalty, see §151.99

§ 151.12 LIEN ON PREMISES FOR COSTS; SALE OF MATERIALS, ETC.

The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the Code Enforcement Officer shall be a lien against the real property upon which such cost was incurred, which lien shall be filed, have the same priority and be collected as provided by G.S. 160A-216 et seq. If the dwelling is removed or demolished by the Officer, he shall sell the materials of such dwelling and any personal property; fixtures; or appurtenances found in or attached to the dwelling, and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court by the Officer, shall be secured in such manner as may be directed by such court and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court. Provided, however, that nothing in this chapter shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

§ 151.13 ALTERNATE REMEDIES.

In case any dwelling is erected, constructed, altered, repaired, converted, maintained or used in violation of this chapter or of any ordinance or code adopted or any valid order or decision of the Officer or Board made pursuant to any ordinance or code adopted, the Officer or Board may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration or use, to restrain, correct or abate such

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violation, to prevent the occupancy of the dwelling, or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

§ 151.99 PENALTY.

- (A) It shall be unlawful for the owner to occupy or to permit the occupancy by others or for anyone to occupy a dwelling which has been posted with the notices authorized by this Chapter after the time prescribed in the notice for the vacation of said dwelling and each day's occupancy after said date shall be a separate and distinct offense.
- (B) If any person shall violate any provision of this chapter, he shall be guilty of a misdemeanor and punishable by a fine of \$500, as provided by GS. §14-4.
- (C) Any owner of a dwelling who fails to comply with an order to repair, vacate and close or demolish any dwelling determined unfit for human habitation pursuant to the provisions contained within this chapter, or who permits the reoccupancy of an unfit dwelling in violation of this chapter shall be subject to a civil penalty of five hundred dollars (\$500.00) for the first day following the expiration of an order to repair, vacate and close or demolish any dwelling or following a determination that an unfit dwelling has been reoccupied in violation of this chapter. In each instance, a penalty of one hundred dollars (\$100.00) per day shall be imposed for each subsequent day that the unfit dwelling remains in violation of an order issued pursuant to this chapter or in violation thereof. If a person fails to pay the civil penalty within thirty (30) days after being notified of the amount due, the Town may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt or by debt setoff.

CHAPTER 152: PLANNING AND DEVELOPMENT

Section

Extraterritorial Jurisdiction

152.01	Boundaries established
152.02	Map of boundaries

Planning Board

- 152.15 Establishment152.16 Membership, terms and vacancies152.17 Organization, rules, meetings and records
- 152.18 Compensation
- 152.19 Powers and duties
- 152.20 Annual report and budget request

EXTRATERRITORIAL JURISDICTION

§ 152.01 BOUNDARIES ESTABLISHED.

The Town hereby establishes boundaries for the Extraterritorial Jurisdiction authorized under the provisions of G.S. §160A-60. ("81 Code, §11-1) (Ord. passed 9-8-75) **Statutory reference:** Authority of Town to exercise planning and development powers beyond corporate limits, see G.S. §160A-360

§ 152.02 MAP OF BOUNDARIES.

The boundaries established in section §152.01 are delineated on the face of a map entitled "Extraterritorial Jurisdiction of the Town of Franklinton," which is attached to the ordinance from which this section is derived and is hereby adopted as a part of this section by reference. ('81 Code, §11-2) (Ord. passed 9-8-75)

Statutory reference: Authority of Town to draw extraterritorial boundaries on a map, see G.S. §160A-360

PLANNING BOARD

§ 152.15 ESTABLISHMENT.

There shall be a Town Planning Board for the Town of Franklinton, North Carolina, and its Extraterritorial Jurisdiction, established under the authority of the G.S. Ch. 160A, Article 19. (Ord. passed 8-26-85)

Statutory reference: Local planning and regulation of development, see G.S. §160A-360 et seq.

§ 152.16 MEMBERSHIP, TERMS AND VACANCIES.

- (A) The Planning Board shall consist of five members, three (3) of whom shall be citizens living within the corporate limits of the Town, and two (2) of whom shall be citizens living within the Town's Extraterritorial Jurisdiction. The in-town members shall be appointed by the Town Board of Commissioners. The extraterritorial members shall be appointed by the Franklin County Board of Commissioners from the recommendation of the Town Board of Commissioners, in accordance with G.S. §160A-362.
 - (B) Initial terms shall be as follows:
 - (1) In-town members.
 - (a) One (1) member shall be appointed for a term of one (1) year.
 - (b) Two (2) members shall be appointed for terms of two (2 years.

- (2) Extraterritorial members. Two (2) members shall be appointed for terms of three (3) years.
- (C) Their successors shall be appointed for terms of three (3) years. Terms shall expire on June 30. Members shall serve until the expiration of their terms or until their successors have been appointed.
- (D) Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term by the Town Board of Commissioners for in-town members and by the Franklin County Board of Commissioners for extraterritorial members.
- (E) Faithful attendance at the meetings of the Planning Board is considered a prerequisite for the maintenance of membership on the Board. Unexcused absence from three (3) consecutive meetings shall be deemed adequate reason for termination of membership on the Planning Board by the Town Board of Commissioners. (Ord. passed 8-26-85)

§ 152.17 ORGANIZATION, RULES, MEETINGS AND RECORDS.

The Planning Board shall elect a Chairperson and may create and fill such other offices as it may deem necessary. The term of officers shall be one (1) year or until successors shall have been elected and installed, with eligibility for reelection. Vacancies in officers' positions prior to expiration of terms shall be filled for the period of the unexpired term by the Planning Board. The Board shall adopt rules for transaction of its business and shall keep a record of its members' attendance and its resolutions, discussions, findings, and recommendations, which record shall be a public record. The Board shall hold at least one (1) meeting monthly unless there is no business to be discussed or acted upon, and all of its meetings shall be in accordance with G.S. Chapter 143, Article 33C. A quorum shall consist of three (3) members for the purpose of taking any official action required by this chapter. All members of the Board shall have voting power on all matters of business. However, any member who is a party of interest to matters under consideration by the Board shall declare such interest prior to a vote of the Board on the question, and shall abstain from voting on the question. This provision shall not prohibit such members from participation in discussions of the Board on such matters prior to a vote. (Ord. passed 8-26-85)

§ 152.18 COMPENSATION.

All members of the Planning Board shall serve as such without compensation. Members or employees of the Planning Board, when authorized by the Planning Board, may attend planning conferences or meetings of planning institutes or hearings upon pending planning legislation; and the Planning Board may, by formal and affirmative vote, pay the reasonable traveling expenses incidental to such attendance, within the Planning Board's budget and with the concurrence of the Town Board of Commissioners. (Ord. passed 8-26-85)

§ 152.19 POWERS AND DUTIES.

- (A) It shall be the function and duty of the Planning Board to make comprehensive surveys and studies of existing conditions and probable future developments and prepare such plans for physical, social and economic development as will best promote the public health, safety, morals, conveniences or the general welfare as well as efficiency and economy in the development of the Town. The Planning Board shall have powers and duties given it by the General Statues of North Carolina and the Town Board of Commissioners, including the power to:
 - (1) Make studies of the area within its jurisdiction and surrounding areas;
 - (2) Determine objectives to be sought in the development of the study area;
 - (3) Prepare and adopt plans for achieving objectives;
- (4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
- (5) Advise the Board of Commissioners concerning the use and amendment of means for carrying out plans;
- (6) Exercise any functions in the administration and enforcement of various means for carrying out plans that the Town Board of Commissioners may direct;
- (7) Perform any other related duties that the Town Board of Commissioners may direct;
- (8) Accept, receive, and disburse in furtherance of its function any funds, grants, and services made available by the Federal government and its agencies, the State government and its agencies, any Local Government and its agencies and any private and civic sources, with concurrence of the Town Board of Commissioners; the Planning Board, with concurrence of the Town Board of Commissioners, may enter into and carry out contracts with the State and Federal government or any agencies thereof under which financial or other planning assistance is made available to the municipality and may agree to and comply with any reasonable conditions that reimposed upon such assistance;
- (9) Enter into and carry out contracts, with the concurrence of the Town Board of Commissioners, with any other City, County, or Regional Council or Planning agency under which technical planning assistance is furnished; and, with said concurrence of the Town Board of Commissioners, may enter into and carry out contracts with any other City, County, or Regional Planning agency under which it agrees to pay the other local government or Planning agency for technical planning assistance;

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- (10) Conduct such public hearings as may be required to gather information necessary for the drafting, establishment, and maintenance of a development plan for the Town;
- (11) Promote public interest in and an understanding of its recommendations, and to that end, it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may deem necessary.
- (B) The Planning Board shall have no power to incur any debt or obligation of the Town nor shall it have any power to make any expenditure of funds of the Town, unless such funds are specially provided for in the budget of the Town and appropriation made for such purposes by the Town Board of Commissioners, or unless the incurring of such other obligation is otherwise approved by the Town Board of Commissioners.

 (Ord. passed 8-26-85)

CHAPTER 155: UNSAFE BUILDINGS

Section

155.01	Findings; Intent
155.02	Duties of the Building Inspector
155.03	Powers of the Building Inspector
155.04	Standards for Enforcement
155.05	Procedure for Enforcement
155.06	Methods of Service of Complaints and Orders
155.07	In Rem Action by Inspector; Placarding
155.08	Costs a Lien on Premises
155.09	Alternative Remedies

§ 155.01 FINDINGS; INTENT.

Pursuant to the authority granted by G.S. §160A-441, it is the intent of this chapter to provide for the structural repair, closing, or demolition of any commercial structures in accordance with the same provisions and procedures as are set forth by law for the repair, closing, or demolition of structures unsafe for human use. (Ord. passed 8-17-93)

§ 155.02 DUTIES OF THE BUILDING INSPECTOR.

The Building Inspector is hereby designated as the Town officer to enforce the provisions of this chapter. The Building Inspector has the following duties to perform:

- (A) Locate commercial structures in violation of this chapter;
- (B) Take actions pursuant to these sections as may be necessary for the provision of repair, closing, or demolition of the structures.
- (C) Maintain an accurate record of all enforcement proceedings begun pursuant to the provisions of this chapter.
- (D) Perform any other duties as may be prescribed herein or assigned to him by the Town Board of Commissioners. (Ord. passed 8-17-93)

§ 155.03 POWERS OF THE BUILDING INSPECTOR.

The Building Inspector is authorized to exercise such powers as may be necessary to carry out the intent and the provisions of this chapter, including the following powers in addition to others herein:

- (A) To investigate the condition of commercial buildings within the Town in order to determine which structures are abandoned and in violation of this chapter.
 - (B) To enter upon premises for the purpose of making inspections.
 - (C) Examine witnesses and receive evidence, and to administer oaths and affirmations.
- (D) To designate other officers, agents, and employees of the Town as deemed necessary to carry out the provisions of this chapter. (Ord. passed 8-17-93)

§ 155.04 STANDARDS FOR ENFORCEMENT.

- (A) Commercial structures within the Town limits shall be deemed in violation of this chapter whenever the structure constitutes a hazard to the health, safety, or welfare of the citizens as a result of the following:
 - (1) The attraction of insects or rodents.
 - (2) Conditions creating a fire hazard.
 - (3) Dangerous conditions constituting a threat to the public health.
 - (4) Frequent use by vagrants as living quarters.
- (B) In making the primary determination of whether or not a commercial structure is in violation of this chapter, the Building Inspector may, by the way of illustration and not limitation, consider the presence or absence of the following conditions:
- (1) Holes or cracks in the structure's floors, walls, ceilings, or roof which might attract or admit rodents and insects, or become breeding places for rodents or insects.
- (2) The collection of garbage, rubbish in or near the structure which might attract rodents and insects, or become breeding places for rodents and insects.
- (3) Violations of the State Building Code, the State Electrical Code, or the fire protection code which constitutes a fire hazard in the structure.
- (4) The collection of garbage, rubbish, or combustible material, which constitute a fire hazard in the structure.
 - (5) The use of the structure or nearby grounds or facilities by children as a play area.
- (6) Violations of the State Building Code, which might result in children using the structure or nearby grounds or facilities as a play area.
- (7) Repeated use of the structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking, or eating. (Ord. passed 8-17-93)

§ 155.05 PROCEDURE FOR ENFORCEMENT.

(A) *Preliminary investigation, notice, hearing*. Whenever a petition is filed with an inspector by at least five (5) residents of the Town charging that any commercial structure exists in violation of this chapter or whenever it appears to the inspector, upon inspection, that any

commercial structure exists in violation hereof, the inspector shall, if the preliminary inspection discloses a basis for the charges, issue and cause to be served to the owner of and parties in interest in the commercial structure, a complaint stating the charges and containing a notice that a hearing will be held before the inspector at a place therein fixed, not less than ten (10) nor more than thirty (30) days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of the hearing shall also be given to at least one of the persons signing a petition relating to the commercial structure. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.

- (B) Procedure after hearing. After the notice and hearing, the inspector shall state in writing a determination whether the commercial structure violates this chapter. If the inspector determines that the commercial structure is in violation the inspector shall state in writing the findings of fact to support the determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter, and improve the commercial structure or else remove or demolish it within a specified period of time not to exceed ninety (90) days.
 - (C) Failure to comply with order.
- (1) In personam remedy. If the owner of any commercial structure shall fail to comply with an order of the inspector within the time specified therein, the inspector may submit to the Town Board of Commissioners at its next regular meeting a resolution directing the Town Attorney to petition the Superior Court for an order directing the owner to comply with the order of the inspector, as authorized by G.S. §160A-446 (g).
- (2) In rem remedy. After the failure of an owner of a commercial structure to comply with an order of the inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in division (C)(1) above, the inspector shall submit to the Town Board of Commissioners an ordinance ordering the inspector to cause the commercial structure to be removed or demolished, as provided in the original order of the inspector, and pending the removal or demolition, to placard the structure as provided by G.S. §160A-443.
- (D) Petition to superior court by owner. Any person aggrieved by an order issued by the inspector shall have the right, within thirty (30) days after issuance of the order, to petition the Superior Court for a temporary injunction restraining the inspector pending a final deposition of the cause, as provided by G.S.§160A-446(f). (Ord. passed 8-17-93)

§ 155.06 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the inspector shall be served on persons either personally or by registered or certified mail, but if the whereabouts of the persons are unknown and cannot be ascertained by the inspector in the exercise of reasonable diligence, the inspector shall make an affidavit to that effect, and the serving of the complaint or order on the person may be made by publication in a newspaper having general circulation in the Town at least once, no later than the time at which personal service is required under §155.05. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order. (Ord. passed 8-17-93)

§ 155.07 IN REM ACTION BY INSPECTOR; PLACARDING.

After failure of an owner of a commercial structure to comply with an order of the inspector issued pursuant to the provisions of this chapter and upon adoption by the Town Board of Commissioners of an ordinance authorizing and directing the inspector to do so, as provided by G.S. §160A-443(5) and §155.05(C), the inspector shall proceed to cause the commercial structure to either be repaired, removed, or demolished, as directed by the ordinance of the Town Board of Commissioners and shall cause to be posted on the main entrance of the commercial structure a placard prohibiting the use or occupation of the commercial structure. Use or occupation of the building so posed shall constitute a misdemeanor. Each such ordinance shall be recorded in the office of the register of deeds of Franklin County, and shall be indexed in the name of the property owner in the grantor index as provided by G.S. §160A-443(5). (Ord. passed 8-17-93)

§ 155.08 COSTS A LIEN ON PREMISES.

As provided by G. S. §160A-446(6), the amount of cost of any removal or demolition caused to be made or done by the inspector pursuant to this chapter shall be a lien against the real property on which the cost was incurred. The lien shall be filed, have the same priority, and be enforced and the cost collected as provided by G.S. Art 10, Ch. 160A. (Ord. passed 8-17-93)

§ 155.09 ALTERNATIVE REMEDIES.

Neither this chapter nor any provisions of those sections shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce those sections by criminal process, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. (Ord. passed 8-17-93)