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TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

Section

- 10.01 Title of Code
- 10.02 Interpretation
- 10.03 Application to Future Ordinances
- 10.04 Captions
- 10.05 Definitions
- 10.06 Rules of Interpretation
- 10.07 Severability
- 10.08 Reference to Other Sections
- 10.09 Reference to Offices
- 10.10 Errors and Omissions
- 10.11 Official Time
- 10.12 Reasonable Time
- 10.13 Ordinances Repealed
- 10.14 Ordinances Unaffected
- 10.15 Effective Date of Ordinances
- 10.16 Repeal or Modification of Ordinances
- 10.17 Ordinances Which Amend or Supplement Code
- 10.18 Section Histories; Statutory References
- 10.19 Electronic Notice of New Fees and Fee Increases: Period of Public Comment
- 10.99 General Penalty

§ 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.

CHARTER. The Charter of the Town of Franklinton, North Carolina.

CHURCH. A building or structure for public worship of religion, this term shall refer to all religious denominations.

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.

COUNTY. Franklin County, North Carolina.

GOVERNING BOARD; GOVERNING BODY. Shall mean the Mayor and Board of Commissioners of the Town of Franklinton.

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.

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.

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

STATE. The State of North Carolina.

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

SUBCHAPTER. A 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.

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 web site 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

§ 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)

(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.

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*