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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

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

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 part 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

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,

(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*