TOWN OF FRANKLIN, NORTH CAROLINA

CODE OF ORDINANCES

2010 S-9 Supplement contains:
Local legislation current through Ordinance passed 6-7-10
and State legislation current to ALS 2009 #6

AMERICAN LEGAL PUBLISHING CORPORATION

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TOWN OF FRANKLIN,
NORTH CAROLINA

TOWN OFFICIALS

TOWN OFFICIALS

MAYOR	Joe Collins
TOWN MANAGER	Sam Greenwood
TOWN CLERK	Janet A. Anderson
TOWN ATTORNEY	John F. Henning Jr.

TOWN ALDERMEN

ALDERMAN	Verlin Curtis
ALDERMAN	Jerry Evans
ALDERMAN	Billy Mashburn
ALDERMAN	Carolyn Pattillo
ALDERMAN	Joyce Handley
ALDERMAN	Bob Scott

AN ORDINANCE

ENACTING AS AN ORDINANCE, A CODE OF ORDINANCES FOR THE TOWN OF FRANKLIN REVISING, AMENDING, RESTATING, CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE CITY DEALING WITH SUBJECTS EMBRACED IN SAID CODE.

WHEREAS, the present general ordinances of the Town of Franklin are incomplete and inadequate and the manner of arrangement, classification and indexing thereof is insufficient to meet the immediate needs of the Town; and

WHEREAS, the Acts of the State Legislature of the State of North Carolina empower and authorize the Legislative Body of this Town to revise, amend, restate, codify and to compile any existing ordinance or ordinances and all new ordinances not heretofore adopted or published and to incorporate said ordinances into one ordinance in book form; and

WHEREAS, the Legislative Body of the Town of Franklin has authorized a general compilation, revision and codification of the ordinances of the Town of a general and permanent nature and publication of such ordinances in book form.

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Town of Franklin that:

Section 1. The general ordinances of the Town of Franklin as herein revised, amended, restated, codified, and complied in book form are adopted as and shall constitute the "Code of Ordinances of the Town of Franklin."

Section 2 . Said Code as adopted in Section 1 shall consist of the following titles, to-wit:

Title I	General Provisions
Title III	Administration
Title V	Public Works
Title VII	Traffic Code
Title IX	General Regulations
Title XI	Business Regulations
Title XIII	General Offenses
Title XV	Land Usage
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Section 3. All prior ordinances pertaining to the subjects treated in said Code shall be deemed repealed from and after the effective date of said Code except as they are included and reordained in whole or in part in said Code; provided such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of said Code, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, naming or vacating or setting the boundaries of streets, alleys or other public places, nor to any other ordinance of a temporary or special nature or pertaining to subjects not contained therein.

Section 4. Said code shall be deemed published as of the day of its adoption and approval by the Town Legislative Body and the Clerk of the Town of Franklin is hereby authorized and ordered to file a copy of said Code in the Office of the Town Clerk.

Section 5. Said Code shall be in full force and effect immediately on the date of its publication and filing thereof in the Office of the Clerk, and said Code shall be presumptive evidence in all courts and places of the ordinances and all provisions, sections, penalties and regulations therein contained and of the date of passage, and that the same is properly signed, attested, recorded and approved and that any public hearings and notices thereof as required by law have been given.

ADOPTED: This 4th day of May, 1998.

TOWN OF FRANKLIN

By: Thomas B. Woodlee /s/
Mayor

ATTEST:

Janet A. Anderson /s/
Clerk

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Section 1. Body corporate; corporate name; corporate powers.

The inhabitants of the Town of Franklin in Macon County, living within the bounds set forth in section two hereof, are and shall continue to be as heretofore a body corporate under the name and style of "The Town of Franklin," and under the name and style is hereby invested with all the privileges, immunities and franchises, together with all other rights heretofore belonging to Franklin, and in and by that name may sue and be sued, plead and be impleaded, acquire, hold and dispose of property, real, personal and mixed, for the welfare, improvement and use of the town, as its Board of Aldermen or other proper authorities may deem necessary and expedient. (Pr. Laws 1905, C. 26, Sec. 1)

Statutory references:

General corporate powers, see G.S. §§ 160A-11, 160A-12

Section 2. Corporate limits.

(A) The corporate limits of the Town of Franklin shall be and embrace all that territory lying in Macon County within a radius of one mile of the present Macon County courthouse.

(B) The corporate limits of the Town of Franklin, a municipal corporation located in Macon County, North Carolina, shall be extended by annexing to the territory now within the corporate limits the area of land embraced within the following boundaries, to-wit:

Editor's note:

Effective March 3, 2008, the town passed an ordinance to change the form of government to the Council-Manager format.

Beginning at a point where the north boundary line of the right of way of U.S. Highway No. 64 west of Franklin intersects the present line defining the corporate limits of the Town of Franklin; runs westward with the north boundary line of the right of way of U.S. Highway No. 64 to a point where the north boundary line of the right of way of U.S. Highway No. 64 intersects a prolongation of the west boundary line of Woodlawn Cemetery; then following the west boundary line of Woodlawn Cemetery property to its southwest corner; then following the southern boundary line of the Woodlawn Cemetery property to its southeast corner; then following the east and southeast boundary lines of Woodlawn Cemetery property to its northeast corner near the entrance of the Roten Road; then following the south boundary line of the right of way of U.S. Highway No. 64 to the line defining the present corporate limits of the Town of Franklin; thence to the beginning.

(C) Beginning at a stake in the south edge of U.S. Highway 64 West of Franklin, North Carolina running south 19 degrees 5 minutes east 185 feet east to a point in the center of Crawford Branch, thence with center of Crawford Branch south 37 degrees 30 minutes west 218 feet to a point, thence south 3 degrees 30 minutes east 117 feet thence south 3 degrees 0 minutes east 65 feet thence south 34 degrees 30 minutes west 87 feet thence south 24 degrees 0 minutes west 152 feet thence south 62 degrees 0 minutes west 95 feet to a point where Crawford Branch intersects with a small branch along Fred Conley's east line thence with the branch south 3 degrees 30 minutes west 456 feet to a point. Thence south 48 degrees 0 minutes east 453 feet to a point. Thence north 82 degrees 45 feet. East 227 feet. Thence south 140.7 degrees to a point in the north edge of Womack Street thence along the north edge of Womack Street in an easterly direction 93-2 feet thence in a northwesterly direction along the west line of Harry Potts 159.3 feet to the southwest corner of Lot No. 16. Thence north 83 degrees 30 minutes east 165.9 feet to an I.P. Thence north 11 degrees west 59.5 feet. Thence north 69 degrees 0 minutes east 213 feet to an I.P. Thence north 0 degrees 17 minutes east 145 feet to a concrete monument thence north 24 degrees 36 minutes west 1118.9 feet to a red oak thence north 19 degrees 5 minutes west 211 feet to a point in U.S. Highway 64, thence in a westerly direction with U.S. Highway 64 in a westerly direction 62 feet to a point of beginning. The same being the boundary description of Forest Hills Subdivision recorded on plat as surveyed by R.H. Slagle and J.R. Bradley on April-May 1955 and recorded on page 186 plat book No. 1 - records of Macon County, North Carolina.

(D) Beginning at a point in the center line of Third Street, the beginning corner being located north 27 degrees 45 minutes east 125 feet from the intersection of the center line of Third Street with the north margin of Cherry Street in the Town of Franklin, Macon County, North Carolina; runs thence with the center of Third Street, north 27 degrees 45 minutes east 635 feet to a point in the center line of the street; thence continuing with the center line of the street north 50 degrees east 277 feet to a point in the center line of the street at the south margin of the Holly Springs Road; thence a northwest direction approximately 15 feet to an iron pipe set on the west margin of Third Street, a corner common to the R.B. Waldroop property; thence north 89 degrees 15 minutes west 135 feet to an iron pipe at the northernmost corner of Lot No. 10 of Highland Acres Subdivision; thence south 22 degrees 43 minutes west 15 feet to a stake; thence north 62 degrees 7 minutes west 150 feet to a stake; thence south 27 degrees 30 minutes west with the east boundary line of the Lyman Field Subdivision 824 feet to an iron pipe, a corner common to the R. Cunningham lot; thence south 65 degrees 51 minutes east 150 feet to the point of beginning.

(E) All laws and clauses of laws applicable to the Town of Franklin according to the corporate limits as heretofore defined, shall be applicable to the Town of Franklin with the extended boundaries as set forth in division (B) above as fully as if the extended boundaries had been set forth in the original charter of the municipal corporation, and each amendment thereto, and each re-enactment of the charter. (Pr. Laws 1905, C. 26, Sec. 2; Pr. Laws 1915, C. 189, Sec. 1; Sess. Laws 1949, C. 129)

Section 3. Town officers.

(A) The administration and government of the town shall be vested in one principal officer, to be styled the Manager, as appointed by the Board of Aldermen, a Board of Aldermen and other officers as are herein provided for. The Board of Aldermen of the Town of Franklin, Macon County, shall consist of six members who shall be elected in accordance with the general laws governing municipal elections of North Carolina. The Manager shall have duties and powers as established in G.S. § 160A-148.

(B) Any qualified voter desiring to become a candidate for the office of Mayor or Alderman shall file with the Town Clerk a Notice of Candidacy on the form and at the time as prescribed by the Board of Aldermen by ordinance. Any candidate for the office of Mayor shall pay to the Clerk a filing fee of $15 and any candidate for the office of Aldermen shall pay a filing fee of $5. (Pr. Laws 1905, C. 26, Sec. 3; Pr. Laws 1933, C. 5; Pr. Laws 1935, C. 5; Sess. Laws 1 965, C. 387; Am. Ord. adopted 3-3-08)

Section 4. Election of officers; eligibility.

The officers of the Town of Franklin, consisting of a Mayor and six Aldermen, shall be elected by ballot in 1905, and biennially thereafter, and shall hold their office for four years or until their successors are elected and qualified. Any qualified voter of this state shall be eligible to the office of Mayor, Alderman or other officer of the Town of Franklin and entitled to vote in its municipal elections: provided he shall have resided within the corporate limits of the town for 90 days next preceding the day of election and shall be entered on the registration books according to the rules and regulations provided for in the following section. Provided further, that the above provision shall not apply to the Chief of Police, Marshal, Policeman, or other employees or officers elected, chosen, or employed by the Board of Aldermen of the town, but the Chief of Police, Marshal, or policeman of the town, or other officers or employees so chosen, employed, or elected by the Board of Aldermen, need not have resided in the town for the 90 days, or previous to the election or employment by the Board, and need not be a legal voter or resident of North Carolina. (Pr. Laws 1905, C. 26, Sec. 5; Pr. Laws 1915, C. 189, Sec. 2)

Statutory reference:

Residency requirements generally, North Carolina Constitution, Article VI

Section 5. Elections under general law.

(A) All elections held in the Town of Franklin for the election of Mayor, Aldermen or other officer, or for other purposes, shall be held under the rules and regulations set forth in the Public Laws. (Pr. Laws 1905, C. 26, Sec. 6)

(B) The members of the Town Board of Aldermen shall hereafter be elected for four-year terms on a staggered basis as follows: at the regular municipal election to be held in 1977, the three candidates who receive the highest number of votes shall be elected for four-year terms while the three candidates who receive the next highest number of votes shall be elected for two-year terms. Beginning at the regular municipal election to be held in 1979, and every two years thereafter, three members of the Board of Aldermen shall be elected to serve for four-year terms. (Pr. Laws 1905, C. 26, Sec. 6: Ord. of 5/8/77)

Statutory references:

The Uniform Municipal Election Laws of 1971, as amended, G.S. §§ 163-279 et seq.

Section 6. Mayor and Aldermen to qualify.

The Mayor, within five days after election and before entering upon the duties of his office, shall, before some person authorized to administer oaths take the oath of office for Mayors prescribed in The Code; and each Alderman or other officer, before entering upon the duties of his office, shall take, before the Mayor or other person authorized to administer oaths, an oath of office prescribed in The Code. (Pr. Laws 1905, C. 26, Sec. 7)

Section 7. Aldermen to fill vacancies.

(A) The Board of Aldermen shall have power to fill any vacancy in the Board that may occur during their term of office, by death, resignation or otherwise.

(B) The Board of Aldermen shall have power to elect one of their number Mayor Pro Tempore, to act as Mayor in the case of absence of the Mayor or his disability to perform the duties of his office. The person so appointed shall possess all the powers and rights of the Mayor during his absence or inability to attend to his duties. In the case of a vacancy in the office of Mayor, caused by death, resignation or otherwise, the Board of Aldermen shall have authority to elect his successor, who shall serve as Mayor until the next regular election, when his successor is elected and qualified: Provided, that any person eligible to the office of Mayor at the regular election may be elected by the Board of Aldermen to fill out an unexpired term as above set forth. (Pr. Laws 1905, C. 26, Sec. 8)

Statutory reference:

Vacancies, G.S. § 160A-63; Mayor pro tem, G.S. § 160A-70

Section 8. Mayor to preside at meeting of Aldermen; to break ties.

The Mayor, when present, shall preside at all the meetings of the Board of Aldermen, and when there is an equal division upon any question or in the election of officers by the Board he shall determine the matter by his vote. He shall vote in no other case, and if he shall be absent the Mayor Pro Tempore may exercise his duties. (Pr. Laws 1905, C. 26, Sec. 10)

Statutory reference:

Mayor to preside over the board, G.S. § 160A-69

Section 9. Aldermen to form one Board; meetings.

The Aldermen shall form a Board, and a majority of them shall be competent to perform all the duties prescribed, unless otherwise provided. At their first meeting they shall fix stated days of meeting for the year, which shall be as often at least as once in every month. Special meetings of the Aldermen may also be held on the call of the Mayor or a majority of the Aldermen, and of every meeting, when called by the Mayor, all the Aldermen shall be notified, and when called by a majority of the Aldermen as shall not join in the call shall be notified. (Pr. Laws 1905, C. 26, Sec. 11)

Statutory reference:

Procedure for regular and special meetings, G.S. § 160A-71

Section 10. Aldermen to pass ordinances, bylaws, rules and regulations.

The Board of Aldermen, when convened, shall have power to make and provide for the execution thereof of ordinances, bylaws, rules and regulations for the better government of the Town of Franklin as they may deem necessary, not inconsistent with this act or with the laws of the land. (Pr. Laws 1905, C. 26, Sec. 12)

Statutory reference:

General ordinance making power, G.S. § 160A-174

Section 11. Powers.

Among the powers hereby conferred on the Board of Aldermen they may borrow money or create a public debt for purposes other than necessary expenses of the town, only after they have passed an ordinance by a three-fourths vote of all the Board, at two separate regular meetings, submitting the question of creating a debt to the vote of the people, and a majority of the qualified registered voters have voted in favor thereof. Thirty days' notice of the election shall be given in some newspaper published in Macon County, at which election those favoring the creation of the debt shall vote "Approved," and those who oppose it shall vote "Not Approved." The board may order a new registration at any and all elections if they deem it proper to do so. They may provide water-works, provide for macadamizing, building, repairing, paving and cleaning streets and sidewalks, regulate markets and take all proper means to prevent and extinguish fires; to appoint and regulate a police force to execute the precepts as the Mayor or other person may issue to them; to preserve the peace and order of the town and to execute the ordinances of the town; to suppress and remove nuisances, preserve the health of the town from contagious or infectious diseases, and shall appoint and provide for the pay and prescribe the duties of all other officers as may be deemed necessary for the good order of the town. (Pr. Laws 1905, C. 26, Sec. 13; Pr. Laws 1907, C. 323, Sec. 1)

Section 12. Bonds.

The Board of Aldermen of the Town of Franklin shall be and they are hereby authorized, empowered, and directed to issue bonds of their Town to be styled "Public Improvement Bonds of the Town of Franklin" to an amount which in the discretion of the Board of Aldermen will meet with the necessary public improvements authorized herein, and of the denomination and of the proportion as the Board of Aldermen shall deem advisable; the bonds to be signed by the Mayor of the Town of Franklin and countersigned by the Clerk of the Board of Aldermen of the town, and to be of the form and tenor and transferable in the way and the principal thereof payable or redeemable at the time or times, not exceeding 40 years from the date thereof, at the place or places as the Board of Aldermen of the Town of Franklin may determine; that none of the bonds may be disposed of at a less price than their par value, and the bonds may be issued at the time or times and in the amount or amounts as may be deemed best by the Board of Aldermen of the town to meet the expenditures contemplated by this Act and provided for herein. The bonds shall bear interest from the date of issuing thereof at a rate not to exceed 6% per annum, with interest coupons attached, payable

annually or semiannually as the Board may determine, and at the time or times and at the place or places as may be deemed advisable by the Board of Aldermen: Provided, that the bonds so issued as provided for herein shall not exceed in the aggregate the sum of $30,000. (Pr. Laws 1915, C. 189, Sec. 3)

Section 13. Same; record; coupons receivable for dues to Town; exempt from Town tax.

The bonds and their coupons when issued as herein provided shall be numbered and a record shall be kept of all bonds and when due. The interest coupons shall be received in payment of all taxes, fines, assessments, or debts due the town, and the bonds shall not be taxed by the town nor shall they be subject to any town tax. (Pr. Laws 1915, C. 189, Sec. 4)

Section 14. Same; special tax.

For the purpose of providing for the payment of the annual or semiannual interest of the bonds, and to create a sinking fund for the final discharge and payment of the bonds when due, the Board of Aldermen of the Town of Franklin are hereby authorized and it shall be their duty annually to compute, lay, and levy at the time of levying other taxes of the town a sufficient special tax upon all polls and all property, real and personal, and on other subjects of taxation mentioned in the charter of the Town, which shall be returned or listed for general taxation in the Town to meet the purpose, at all times observing the constitutional equation between the property and polls; and the taxes shall be collected in the same manner and at the same time as other taxes in the Town are collected, and shall be paid over by the Tax Collector to the Treasurer of the Town, and the Tax Collector and Town Treasurer shall give justified bonds in sufficient amounts to cover the amount of taxes, both the bonds to be approved by the Board of Aldermen and to be filed with the Clerk of the Board of Aldermen of the Town. (Pr. Laws 1915, C. 189, Sec. 5)

Section 15. Same; taxes kept separate; specific appropriation; application of surplus.

The taxes levied and collected as provided in this act and for the purposes specified herein shall be kept separate and apart from any other taxes of the Town, and shall be used only for the purposes for which they were levied and collected: Provided, that if the tax levied and collected for the payment of interest shall in any year exceed the sum required for that purpose, then the amount in excess may be applied to the credit of the interest fund for the next succeeding year, or the Board of Aldermen may create a sinking fund for the final payment and discharge of the bonds when due by excess. (Pr. Laws 1915, C. 189, Sec. 6)

Section 16. Same; purposes of bond issues; apportionment of expenditures; annexed territory not liable for present debt.

The bonds herein provided for shall be for the following purposes: for the improvement, construction, or extension of streets, sidewalks, bridges, sewers, drains, and water-works within the limits of the Town of Franklin as set out in section one of this act, and for no other purposes; and the Board of Aldermen of the Town are hereby authorized, empowered, and directed to use, in their discretion, the pro rata portion of the sum or sums realized from the sale of the bonds as the taxable values within the present limits of the Town bear to the taxable values of the extended territory included herein, and to apportion the same to the public improvements in respective areas according to the ratio or pro rata portion: Provided, that neither the polls, real or personal property now outside the corporate limits of the Town of Franklin and proposed to be included within the limits as set out in Section one of this charter, shall ever be taxed to pay any part of the interest or principal of the present indebtedness of the Town of Franklin, bonded or otherwise. (Pr. Laws 1915, C. 189, Sec. 7)

Section 17. Same; bridges.

The provisions of this act shall not apply to or include the bridges across the Tennessee River within the limits of the Town, but the bridges shall be and remain under the care and control of the County of Macon, and the County of Macon shall, through its proper officers, as provided by law, direct, control, and pay for all maintenance, repair, or construction thereon necessary, and be under the same pains and penalties therefor as now provided by law. (Pr. Laws 1915, C. 189, Sec. 8)

Section 18. Town Clerk and Treasurer and Tax Collector.

At the first meeting of the Board of Aldermen after their qualification, or as soon thereafter as practicable, they shall elect a Town Clerk and Treasurer and a Tax Collector, who shall, respectively, hold their offices during the term of the Board electing them and until their successors are elected and qualified, subject, however, to be removed at any time and others appointed in their stead for misbehavior or neglect in office. Before acting, each of the officers shall take an oath before the Mayor to faithfully discharge the duties required of him by the Board of Aldermen, and each shall execute a bond in an amount as the Board may require, with security, to be approved by the Board. The bonds required of the Clerk and Treasurer and Tax Collector shall be renewed every year. (Pr. Laws 1905, C. 26, Sec. 14)

Statutory references:

Oaths of office, G.S. § 160A-61

Section 19. Salary and duties of Clerk.

The Clerk and Treasurer shall have a reasonable salary, and it shall be his duty to keep regular and fair minutes of the proceedings of the Board, and to preserve all books, papers and other articles committed to his care during his continuance in office, and deliver them to his successor; and he shall receive and faithfully keep all monies which shall be paid to him for the use and in behalf of the Town, and disburse the same according to orders given in obedience to the direction of the Board appearing on the minutes. He shall keep a fair and correct account of all monies so received and disbursed by him in a book kept for that purpose, showing from what source money is received and for what purpose paid out, and shall submit said accounts to the Board whenever required. He shall pay to his successor all monies in his hands belonging to the Town, and faithfully perform all duties imposed on him as Clerk and Treasurer by the laws and ordinances of the Board. (Pr. Laws 1905, C. 26, Sec. 15)

Statutory references:

Duties of the Clerk, G.S. § 160A-171; duties of the finance officer, G.S. § 159-25

Section 20. Tax Collector.

The Tax Collector whose appointment is herein provided for shall be vested with the same power and authority in the collection of taxes that Sheriffs have, and subject to the same fines and penalties for failure or neglect of duty. He shall be charged with the sums appearing by the tax lists as due for town taxes. He shall be credited in settlement as Sheriffs are credited with amounts in suit by appeal, all poll tax and tax on personal property certified by the Clerk of the Commissioners of Macon County by order of the Board of County Commissioners to be insolvent and uncollectible. He shall at no time retain in his hands more than $50 for a longer time than ten days, under a penalty of 10% per month to the City upon all sums so unlawfully retained. The Board of Aldermen, at a regular meeting before the last regular meeting in each year, shall appoint one of their number to be present and assist at the counting and settlement between the Tax Collector and Treasurer, and to audit and settle the accounts of the Town Treasurer. The accounts so audited shall be reported to the Board of Aldermen, and when approved by them shall be recorded in the minute book of the Board and be prima facie evidence of their correctness. It shall be the duty of the Board to remove any Tax Collector who shall fail to settle and fully pay off the taxes due by law from him, and he shall not be eligible to re-election to the office. (Pr. Laws 1905, C. 26, Sec. 16)

Statutory reference:

Duties of the Tax Collector, G.S. § 105-350

Section 21. Police.

The Board of Aldermen shall have power to appoint a police force, to consist of a Chief of Police or Chief Marshal and number of policemen as the good government of the Town may require, who shall hold their office during the term of the Board appointing them and until their successors are appointed. The Chief of Police or Marshal shall give bond in the sum as the Board of Aldermen may require for the faithful performance of the duties imposed by law and the ordinances of the Town, and to faithfully account to the Town for all monies that may come into his hands from fines, penalties, and the like. It shall be the duty of the Chief of Police to attend the Mayor's Court when in session, and report at times as the Board may require, not less than once in each week, to the Mayor any violations of law or ordinances of the City, to collect all fines and penalties imposed and pay them to the Town Treasurer, and to execute the orders and judgments of

the Mayor's court; to see that the laws and ordinances of the Town are enforced, and do other things as may be required of him by the Board. The Chief of Police and all members of the force shall have all the power and authority vested in sheriffs and constables for the preservation of the peace of the Town by suppressing disturbances and apprehending offenders. They shall execute all the processes directed to them by the Mayor or others, and in the execution thereof shall have all the powers which sheriffs and constables have. The Chief and members of the police force shall take an oath before the Mayor for the faithful performance of the duties by law and ordinances. (Pr. Laws 1905, C. 26, Sec. 17)

Section 22. Same; fees; temporary police.

The members of the police force shall be entitled to receive the same fees arising from the execution of precepts as sheriffs and constables for the same service, which fees shall be collected and paid into the treasury of the Town. The Board of Aldermen shall pass ordinances for the government and direction of the police and fix their compensation. In times of exigencies the Mayor may appoint temporarily additional policemen for the time as shall appear necessary, not exceeding one week, who shall take the same oath and shall be subject to the same control as regular policemen. (Pr. Laws 1905, C. 26, Sec. 18)

Section 23. Same; suspension.

The Mayor may at any time, upon charges being preferred, or upon finding any member of the police force guilty of misconduct, have power to suspend the members from service until the Board of Aldermen may convene and take action in the matter, and upon hearing the proofs in the case the Board may discharge or restore the member, and the pay of the member shall cease from the time of the suspension to the time of his restoration to service. Any violations of the regulations of the Board or orders of the Mayor shall be good cause for dismissal. The Mayor shall suspend the Chief or any member of the police force if found drunk or disorderly when on duty. The police shall have general power to do whatever may be necessary to preserve the good order and peace of the Town and secure the inhabitants from personal violence and their property from loss or injury. (Pr. Laws 1905, C. 26, Sec. 19)

Section 24. Tax lists.

The Clerk and Treasurer shall, on the third Monday in May of each and every year, make advertisement in some newspaper, notifying all persons residing in the Town of Franklin who own or have control of taxable property in the Town on the first of June to return to him on or before the last day of June a list of their taxable property in the Town. The list shall state the number of lots or parts of lots and all other property now taxable or that may hereafter be made taxable by the laws of the State or the ordinances of the Town, and the list so returned to the Clerk and Treasurer shall be sworn to before him, and he is hereby authorized to administer to them the following oath: "I, _____ _____do solemnly swear that the tax return made out and returned by me contains a full and accurate list of the number of lots owned by me in the Town, a full and accurate list of all property, stocks, bonds, shares in incorporated companies, income, solvent credits and all other property of all kinds and descriptions subject to taxation by the laws of the State and ordinances of the Town according to my best information and belief: So help me, God." And from the return so made the Clerk and Treasurer shall, within 30 days after the expiration of the time for taking the list, make out in a book kept for that purpose an alphabetical list of the persons and owners of property who have so made their return in the same manner as tax lists are made out by law for the collection of State taxes. And the Clerk and Treasurer shall copy in the book the assessments made by the Board of Township Assessors of all property within the Town limits, which assessment may be revised, corrected or amended by the Board of Aldermen. (Pr. Laws 1905, C. 26, Sec. 20)

Section 25. Same; additions.

The Clerk and Treasurer shall, within 30 days from the return of the tax list, make out, to the best of his knowledge and belief, by comparing his book with the returns made by the Board of Township Assessors and by diligent inquiry from other sources, a list of taxable polls and owners of taxable property in the Town who shall have failed to return a list in the manner and time aforesaid, and the person so listed shall forfeit and pay a sum to be fixed by the Board of Aldermen not exceeding twice the amount of his tax, which penalty may be recovered as other fines and penalties are

recovered by the Board of Aldermen before the Mayor of a justice of the peace. (Pr. Laws 1905, C. 26, Sec. 21)

Section 26. Subjects of taxation.

In order to raise a fund for the expenses incident to the proper government of the Town, the Aldermen may annually levy and collect the following taxes, viz.:

(A) On all real estate and personal property in the Town, a tax not exceeding fifty cents on every hundred dollars value of property, and on all taxable polls a tax not exceeding $1.50, who may be residents of the Town on the first day of June of each year or may have been so resident within 60 days next preceding that day; the constitutional equation to be observed in all levies.

(B) On all carriages, buggies, hacks and horses used in the Town for hire, a tax not exceeding $5. (Pr. Laws 1905, C. 26, Sec. 22; Pr. Laws 1907, C. 323, Sec. 2)

Section 27. Aldermen to levy taxes.

As soon as the Clerk and Treasurer shall have furnished the assessment roll as provided, and the same shall have been revised by the Board, the Board of Aldermen shall proceed to levy the taxes on the subjects of taxation as they may choose and shall place the tax list in the hands of the collector for collection, who shall proceed forthwith in the collection, and shall complete the same on or before the first day of January next ensuing, and shall pay the monies as collected to the Treasurer; and the collector for his compensation shall receive not exceeding 5% on the amount collected. (Pr. Laws 1905, C. 26, Sec. 23; Pr. Laws 1907, C. 323, Sec. 3)

Section 28. Tax to be collected by distress.

If any person liable to taxes on subjects directed to be listed shall fail to pay them within the time prescribed for collection, the collector shall proceed forthwith to collect the same by distress and sale, after public advertisement for the space of ten days in some newspaper published in the county, if the property to be sold be personalty, and of 30 days if the property be realty. (Pr. Laws 1905, C. 26, Sec. 24)

Section 29. Real estate to be sold.

When the tax due on any lot or other land which is hereby declared to be a lien on the same shall remain unpaid on the first day of January, and there is no other visible estate of the lot or land of the person in whose name it is listed liable for distress and sale known to the Collector, he shall report the fact to the Aldermen, together with a particular description of real estate and thereupon the Aldermen shall direct the same to be sold at the court-house door by the Collector, after advertising for 30 days in some newspaper published in the County, which the Collector shall do. And the Collector shall divide the land or lot into as many parts as may be convenient (for which purpose he is authorized to employ a surveyor), and shall sell as many parts as may be required to pay the taxes and all expenses attendant thereto. If the same cannot be conveniently divided the Collector shall sell the whole; and if no person will pay the whole of the tax and expenses for the whole of the land the same shall be struck off for the Town, and, if not redeemed as hereinafter provided, shall belong to the Town in fee. The Collector shall return an account of his proceedings to the Aldermen, specifying the portions in which the land was divided and the purchaser or purchasers thereof, and the prices paid by each, which shall be entered on the book of proceedings of the Board, and if there shall be a surplus after paying the taxes and expenses of advertising and selling the same it shall be paid into the Town Treasury, subject to the demand of the owner. (Pr. Laws 1905, C. 26, Sec. 25)

Section 30. Improvement of streets and sidewalks.

The Board of Aldermen is hereby authorized and empowered to tax and assess at any regular meeting ½ the cost of paving sidewalks and $^{1}/_{3}$ the cost of macadamizing or paving streets against the lands fronting on each side of the street, each property being liable only for the share of the cost of paving or macadamizing that part of the street or sidewalk upon which the property fronts; and for the purpose the Board of Aldermen shall cause to be kept an accurate account of the cost of the pavement or macadam upon which each property fronts; and the person appointed or directed to keep the account shall report the same to the Board under oath, and when found by the Board to be correct, it shall be entered in the minutes as a charge against the frontage, and the sums so charged shall be a lien on the property from the time, which lien shall relate back to the time the improvements were

begun under an order of the Board for the purpose. The Board shall cause notice to be served personally or through the mails upon the owner of the lands charged of the amount of the charge and of the time herein provided for the payment of the same, and unless the same shall be paid within 30 days thereafter the Clerk of the Board shall issue execution against the property charged, directed to the Chief of Police, who shall sell the same after due advertisement, by descending bids, to the person who will pay the charges and costs of sale for the least number of front feet running back at right angles with the street to the back of the lot. Any landowner may pay amount so charged against his land under protest and file a statement with the Board of Aldermen, under oath, that the amount charged is in excess of the share of costs for which the property is made liable by this act; in which case the Board shall cause the issue to be transferred to the Superior Court, to be tried as other civil issues, and the Town shall return any excess found to the owner with costs, if the issue is found against it. (Pr. Laws 1907, C. 323, Sec. 4)

Section 31. Equity of redemption.

The owner of any land sold under the provisions of this charter and amendments, or any person acting for them, may redeem the same within one year after the sale by paying to the purchaser the sum paid by him and 25% on the amount of taxes and expenses, and the Treasurer shall refund to him the proceeds, less double the amount of the taxes. That if the real estate sold as aforesaid shall not be redeemed within the time specified, the corporation shall convey to the purchaser or his assigns the same in fee; and the recitals in the conveyance, or in any other conveyance of land sold for taxes due the town, that the taxes were due, or of any other matter required to be true or done before the sale might be made, shall be prima facie evidence that the same was true and done. (Pr. Laws 1905, C. 26, Sec. 26)

Section 32. License taxes.

In addition to the subjects listed for taxation the Aldermen may levy a tax on the following subjects, the amount of which tax, when fixed, shall be collected by the Tax Collector immediately, and if the same be not paid on demand the same may be recovered by suit on the articles upon which the tax is imposed. Any other property of the owner may be distrained and sold to satisfy the same, viz.:

(A) Upon all itinerant merchants or peddlers selling or offering to sell in the Town, a tax not exceeding $50 per year, except only as sell books, charts or maps, and the like as sell only goods, wares and merchandise and other productions of the growth and manufacture of the state. Upon every company of circus riders who shall exhibit within the Town or in one mile thereof, and upon every person or company exhibiting within the Town or in one mile thereof, stage or theatrical companies, sleight-of-hand performers, rope-dancing, tumbling or menagerie, a tax not exceeding $100 for every day they exhibit.

(B) Upon every exhibition of any other kind, and on every theater company, circuses, menageries, horse-dealers or any other business, company or agency enumerated in Schedule "B" of chapter 247 of the Public Laws of 1903, or which may hereafter be the subject of taxation by the State law, when not exempt from a license or privilege tax by Towns, a tax equal to the amount imposed by the State law for the use of the State. (Pr. Laws 1905, C. 26, Sec. 27)

Section 33. Objects of taxation.

Taxes for the Town purposes shall be levied on real and personal property, and all other objects of taxation shall be taxed as provided in the State Constitution. (Pr. Laws 1905, C. 26, Sec. 28)

Section 34. Streets.

The Board of Aldermen shall have power to grade, macadamize and pave the streets and sidewalks, and to lay out, build and open new streets or widen those already open, and make the improvements thereon as the public convenience may require. That when any land or right-of-way may be required for the purpose of opening new streets or for widening those already open, or for other subjects allowed by this charter, and for want of agreement as to the value thereof the same cannot be purchased from the owner or owners, the same may be taken at a valuation to be made by three freeholders of the town to be chosen by the Aldermen of the Town, after giving ten days' notice to the land-owner in writing; and in making the valuation the freeholders, after being duly sworn by the Mayor or other officer authorized to administer oaths, shall take into consideration the loss or damage which may accrue to the owner in consequence of the land or right-of-way being surrendered; also any benefit or advantage the owner may receive from the opening or

widening of the streets or other improvement, and ascertain the sum which shall be paid to the owner of the property, or, if the benefits shall be greater than the damage to the property owner, shall report the amount of benefits to the property owner and report the same to the Board of Aldermen, and under their hands and seals, which report, on being confirmed by the Board and spread upon their minutes, shall have the effect of a judgement against the Board of Aldermen or land-owner, as the case may be, and shall pass the title to the Board of Aldermen in their corporate capacity of the land so taken; and in the case of the improvement being declared a benefit to the land-owner by the appraisers, as above provided, shall be a lien on the land of the owner for the amount of the sum so declared: Provided, that if any person over whose land the street may pass or improvement be erected, or the Aldermen, be dissatisfied with the value thus made, then in that case either party may appeal to the next Superior Court of Macon County, where the issues may be tried as appeals are from the Commissioners' court: Provided, however, that the appeal shall not hinder or delay the Aldermen opening or widening the street or erecting the improvement. The Board of Aldermen shall further have power to cause the sidewalks to be curbed and paved, or repaired when deemed necessary: Provided always, that the owner before whose lot the curbing or paving may have been ordered shall have 30 days' notice, in writing, of the order of the Board. (Pr. Laws 1905, C. 26, Sec. 29)

Section 35. Same; assessments.

Whenever the Board of Aldermen of the Town of Franklin shall order any street or sidewalk to be opened, graded, macadamized, paved or otherwise constructed, repaired or improved, the Board of Aldermen shall have the power to assess any portion, not exceeding one-half, of the cost of the opening, grading, macadamizing, paving, construction, repairs or improvements against the property owners benefited by proposing opening, grading, macadamizing, paving, construction, repairs or improvements. To the end that the provisions of this section may be carried into effect the Board of Aldermen shall have the power to declare the area within the town as may be directly benefited by the proposed opening, grading, macadamizing, paving, construction, repairs or improvements, a taxing district and the cost of the proposed improvements assessed against the property owners shall be a lien upon the lands of the several property owners lying within the area to the extent and in the manner following:

The Board of Aldermen having declared the taxing district and fixed its boundaries and having ordered the proposed improvements and fixed the proportion to be assessed against the property owners benefited, shall appoint a jury of three disinterested freeholders of the Town, who shall go upon the property embraced in the taxing district, after 30 days notice in writing to the respective owners of the property, and assess against the owner of each individual piece of property within the district the proportion of the cost to be paid by him, and the same shall be a lien upon all property of the property owner lying with said taxing district. It shall be a lien upon all property of the property owner lying with the taxing district. It immediately adjacent or contiguous to the street or sidewalk so ordered to be opened, graded, macadamized, paved, constructed, repaired or improved, but it shall be sufficient that the property be included in the taxing district so declared and established by the Board of Aldermen. But the Board of Aldermen shall only include in the taxing district the property as is directly benefited by the proposed improvement. The jury so appointed shall make their report in writing to the Board of Aldermen under their hands and seals, which report shall be subject to review or amendment by the Board of Aldermen, and on being confirmed by the Board and spread upon their minutes, shall have the effect of a judgment against the respective landowners and be a lien upon the lands of the owners for the amounts so declared: Provided, that any party aggrieved by the action of the Board of Aldermen upon the report shall have the right of appeal to the Superior Court of Macon County. (Pr. Laws 1920 E.S., C.6)

Section 36. Cemeteries.

The Board of Aldermen shall have power to regulate the manner and terms on which bodies may be interred in the cemeteries in the Town, and have the cemeteries kept in due order and repair, and they shall have power to purchase, when they deem it necessary, a piece of land within or beyond the limits of the Town for the purpose of a public cemetery. They also have power to forbid any and all interments of dead bodies within the limits of the Town whenever they may deem it expedient. (Pr. Laws 1905, C. 26, Sec. 30)

Section 37. Fire limits.

The Board of Aldermen of the Town may have power to establish fire limits within the Town, within which limits it shall not be lawful for any person to erect or build any wooden house, make any wooden additions to any house or cover any building other than with metal or slate without first obtaining a building permit from the Board, under the penalties as the Board may establish, and penalties may be sued for and recovered against the owner of the property in any court having jurisdiction. (Pr. Laws. 1905, C. 26, Sec. 31)

Section 38. Additional powers

The Board of Aldermen shall have power to prohibit or control the firing of firearms, firecrackers, torpedoes and other explosives, and to control the sale and manner in which the same may be kept in the Town; the pace and speed at which horses may be driven or ridden in the Town; the arrangement of all stovepipes and flues in buildings; the manner in which powder and other explosives and inflammable materials may be kept and sold; the manner in which dogs, hogs and other stock may be kept, and prevent them from running at large in the Town; to cause all alleys, lots, cellars, privies, stables and other places of like character to be examined by a sanitary officer to be appointed for that purpose. It shall be their duty, on complaint, to cause by their order the sanitary officer to have the places cleaned and the nuisance abated, and the sanitary officer or other person appointed by the Board or charged with that duty shall have authority to enter the premises described to be in bad order and inspect and have the same cleaned; and the expense of having the same cleaned and of abating the nuisance shall be recovered from the owner by action of debt in any court having jurisdiction: Provided, the owner or occupier refuses to abate the nuisance after notice given by the sanitary officer. (Pr. Laws 1905, C 26, Sec. 32)

Section 39. Nuisances.

The Board of Aldermen shall have power and it shall be their duty to prohibit all trades or occupations which are a nuisance from being carried on in their Town, and the power and authority of the Board for the abatement of nuisances shall extend ½ mile from the town limits. They shall have power and it shall be their duty to cause all ponds, sunken lots and other places where filth accumulates to be drained and filled up, and to declare all houses which have become decayed and dilapidated or in an unsanitary condition, or that are dangerous to life and limb from their dilapidated condition, a nuisance, and have them repaired or torn down, and to recover of the owner or occupier of the premises, as above, the expenses incurred in the removal or repairing of the house or the abating of the nuisance, which expenses shall be a lien on the lot: Provided, the owner or occupier of the lot, after ten days' notice, shall neglect or refuse to remove, repair or abate the nuisance. They shall have authority to cause all nuisances arising from any cause whatever within and for ½ mile without the Town limits to be removed or abated, and for the removal or abating any nuisance the person creating the same shall pay the same as above required. (Pr. Laws. 1905, C. 26, Sec. 33)

Section 40. Markets.

The Board shall have power to regulate the manner in which provisions and all other articles shall be sold in the streets and markets of the Town, and to regulate the manner in which the streets, markets, squares and sidewalks in the Town may be used and kept. (Pr. Laws 1905, C. 26, Sec. 34)

Section 41. Fines and penalties.

All fines and penalties imposed by this act, or which are or may be imposed by the ordinances of the Town or the laws of the State shall be paid to the Town Treasurer for the benefit of the town. That for the violation of any ordinance or bylaw made by the Board of Aldermen they may prescribe penalties not exceeding $50 for each offense; and when judgment shall be given for any penalty the defendant may, unless the penalty and costs be paid, be tried for a misdemeanor and committed to the County jail for 30 days or fined $50, in the discretion of the court, unless payment of the penalty and costs be made. (Pr. Laws 1905, C. 26, Sec. 35)

Section 42. How penalties recoverable.

All penalties imposed by law relating to the Town and all imposed by this act or the ordinances of the Town shall be recoverable in the name of "The Town of Franklin" before the tribunal having jurisdiction thereof. (Pr. Laws 1905, C.26, Sec. 36)

Section 43. Salary of Aldermen.

The Board of Aldermen may each be allowed a salary not exceeding two dollars $2 per day for the time actually employed in the service of the city, and the salary of no officer appointed or elected shall be increased or diminished during the time for which he was elected. (Pr. Laws 1905, C. 26, Sec. 37)

Statutory reference:

G.S. § 160A-64 authorizes the Board to establish and alter their own compensation

Section 44. Violations of ordinances.

Any person or persons violating any of the ordinances of the Town shall be guilty of a misdemeanor and subject to the provisions of the Code relative to "Towns." (Pr. Laws 1905, C. 26, Sec. 38)

Statutory reference:

Violations of municipal ordinances, G.S. § 14-4

RELATED LOCAL LAWS

PRIVATE LAWS 1927

CHAPTER 432

Confederate Monument

Section 1. Desecration prohibited; use of lot.
Section 2. Violation; penalty.

CHAPTER 432

Confederate Monument

Section 1. Desecration prohibited; use of lot.

It shall be unlawful for any person, firm or corporation to desecrate or use in any way except as a memorial to the Confederate soldiers of Macon County the lot in the Town of Franklin which has been set aside and designated as the Confederate memorial lot, the lot being enclosed by an iron railing, and on which is erected the monument of the Confederate dead.

Section 2. Violation; penalty.

Any person, firm or corporation violating the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than $50 or imprisoned not less than 30 days, within the discretion of the court.

PRIVATE LAWS 1929

CHAPTER 3

Use of Power Plant Proceeds

Section 1. Purpose of expenditures.
Section 2. Division of expenditures authorized.

Section 1. Purpose of expenditures.

It shall be unlawful for the Board of Aldermen of the Town of Franklin, in Macon County, to use the $26,000, now in the hands of its Treasurer, and arising from the sale of its municipal power plant, to pay off and discharge any notes or other debts of the Town of Franklin now outstanding, whether due or hereafter to become due, to build, construct, hard-surface or improve any street or streets of the Town, to build or construct sidewalks, to build or construct any waterworks or any other improvements in the Town for the general use of the citizens of the Town.

Section 2. Division of expenditures authorized.

The Board of Aldermen of the Town of Franklin be and they are hereby authorized, directed and empowered to use any part or all of the $26,000 for the purpose of any one or all of the purposes set out in section one of this act.

SESSION LAWS 1947

CHAPTER 38

Qualifications of officers

Section 1. Exemption from law.

CHAPTER 38

Qualifications of Officers

Section 1. Exemption from law.

The provisions of Chapter 160-25 of the General Statutes of 1943, requiring mayors, commissioners, intendants of police, aldermen or other chief officers of any city or town to be qualified voters therein, shall not apply to the Town Police Chief, Town Clerk, Town Fire Chief, police officers or other officers or employees of the Town of Franklin except that the Mayor and the members of the Board of Aldermen shall be qualified voters of the municipality.

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 ordinance
10.17 Ordinances which amend or supplement code
10.18 Section histories; statutory references
10.19 Damaging ordinances prohibited

10.99 General penalty

§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the Town of Franklin shall be designated as the Code of Franklin 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, shall apply to ordinances hereafter adopted 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.

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

COUNTY. Macon County, North Carolina.

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 this municipality unless the context clearly requires otherwise.

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, 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.

SHALL. The act referred to is mandatory.

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

STATE. The State of North Carolina.

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.

TOWN, MUNICIPAL CORPORATION, or ***MUNICIPALITY.*** The town of Franklin, 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 ***YEAR OF OUR LORD.***

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this municipality shall be by the following rules, unless such construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(A) ***AND*** or ***OR.*** Either conjunction shall include the other as if written "and/or," if the sense requires it.

(B) Acts by assistants. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

(C) Gender; singular and plural; tenses. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) General term. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 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, such 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 this town exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such 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 such error.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state/federal laws, shall be the official time within this town for the transaction of all municipal 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 such act or the giving of such 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 be 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 Town Board of Aldermen requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their 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 Town Board of Aldermen shall desire 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 such chapter or section. In addition to such 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: ('76 Code, § 1-1001) (Ord. passed 5-13-60; Am. Ord. passed 1-1-70; Am. Ord. passed 1-1-80; Am. Ord. passed 1-1-85)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute.
Example: (G.S. § 160A-6) ('76 Code, § 1-1001) (Ord. passed 1-17-80; Am. Ord. passed 1-1-85).

(2) 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 that statute for further information.
For example:

§ 31.10 MAYOR.

The Mayor shall preside at all meetings of the legislative body.
(Ord. 10, passed 1-1-80)
Statutory reference:
For the powers and duties of the Mayor, see G.S. § 160A-67

§ 10.19 DAMAGING ORDINANCES PROHIBITED.

No person shall tear or deface any of the town ordinances.
('76 Code, § 1-1007)

§ 10.99 GENERAL PENALTY.

(A) (1) In addition to any other remedies cited in this code of ordinances for the enforcement of the provisions of this code of ordinances, the regulations and standards contained in this code of ordinances may be enforced through the issuance of citations by the appropriate town official. These citations shall be in the form of a civil penalty. The town may recover this penalty in a civil action in the nature of a debt if the offender does not pay the penalty within 72 hours after being cited for a violation. In addition, failure to pay the civil penalty within 72 hours may subject the violator to criminal charges of not more than $50 or imprisonment for not more than 30 days, as set forth in G.S. § 14-4(a). The following civil penalties are established for violations under this section:

(a) Warning citation: correct violation within ten days.

(b) First citation, $25.

(c) Second citation for same offense, $100.

(d) Third and subsequent citation for same offense, $200.

(2) These civil penalties are in addition to any other penalties which may be imposed by a court for violation of the provisions of this code of ordinances.

(B) In addition to the foregoing enforcement provisions, this chapter may be enforced by any remedy provided in G.S. § 160A-175, including, but not limited to, all appropriate equitable remedies issued from a court of complete jurisdiction as provided in G.S. § 160A-175(e). This section specifically provides that each day's continuing violation shall be a separate and distinct offense.

TITLE III: ADMINISTRATION

Chapter

30. BOARD OF ALDERMEN

31. TOWN OFFICIALS

32. FINANCE AND REVENUE

33. DEPARTMENTS, BOARD AND COMMISSIONS

34. CIVIL EMERGENCIES

35. TAXATION

CHAPTER 30: BOARD OF ALDERMEN

Section

General Provisions

30.01 Appointment of Committees and officials
30.02 Regular and special meetings

Ordinances

30.20 Effective date
30.21 Ordinances confined to one subject
30.22 Official copy
30.23 Ordinance book

GENERAL PROVISIONS

§ 30.01 APPOINTMENT OF COMMITTEES AND OFFICIALS.

(A) The Board may create the committees of the Board for special purposes as they deem best.
('76 Code, § 2-1001)

(B) The Board shall appoint the Town Manager.
(Ord. passed 3-3-08)

§ 30.02 REGULAR AND SPECIAL MEETINGS.

(A) The regular meetings of the Board shall be held on the first Monday of each month at 7:00 p.m., at the Town Hall, except for those instances when the first Monday of the month falls on a holiday. In that event, the regular meeting of the Board shall be held the following day at 7:00 p.m., at the Town Hall, unless otherwise designated by the Board.

(B) (1) The Mayor, the Mayor Pro Tempore, or any two members of the Board 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. The notice shall be delivered to the Mayor and each Board member or left at his usual dwelling place at least six hours before the meeting. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or have signed a written waiver of notice. In addition to the procedures set out in this division (B)(1) or any Town Charter, a person or persons calling a special meeting of a Board of Aldermen shall comply with the notice requirements of G.S. Ch. 143, Art. 33C.

(2) Special meetings may be held at any time when the Mayor and all members of the Board are present and consent thereto, or when those not present have signed a written waiver of notice.

(3) During any regular meeting, or any duly called special meeting, the Board may call or schedule a special meeting, provided that the motion or resolution calling or scheduling any such special meeting shall specify the time, place and purpose or purposes of such meeting and shall be adopted during an open session.
(G.S. § 160A-71) ('76 Code, § 2-1011) (Am. Ord. passed 10-3-94)

ORDINANCES

§ 30.20 EFFECTIVE DATE.

All ordinances shall be effective after the ratification thereof except ordinances specifying some other effective date or ordinances required by state law to be effective only after having met specific date requirements.
('76 Code, § 2-1021)

§ 30.21 ORDINANCES CONFINED TO ONE SUBJECT.

All ordinances shall be confined to one subject except appropriation ordinances which shall be confined to the subject of appropriations only.
('76 Code, § 2-1022)

§ 30.22 OFFICIAL COPY.

A true copy of an ordinance, which has been duly enacted by the Board, signed by the Mayor, and attested to by the Clerk shall be known as an official copy of any ordinance for the town. All ordinances or a true copy thereof shall be inserted in this Code in the proper chapter.
('76 Code, § 2-1023)
Statutory reference:
Pleading and proving municipal ordinances, see G.S. § 160A-79

§ 30.23 ORDINANCE BOOK.

The Clerk shall file a true copy of each ordinance, until it is codified in this Code, in an ordinance book separate and apart from the Board's minute book. The ordinance book shall be appropriately indexed and maintained for public inspection in the office of the Clerk.
('76 Code, § 2-1024)
Statutory reference:
Code of Ordinances and ordinance book, see G.S. §§ 160A-77, 78

CHAPTER 31: TOWN OFFICIALS

Section

31.00 Manager
31.01 Mayor
31.02 Clerk-Treasurer
31.03 Other officers and employees; compensation
31.04 Clerk and other officers or employees; bonds

Cross-reference:

Board appoints Tax Collector from time to time, see Charter § 18.

§ 31.00 MANAGER.

It shall be the duty of the Town Manager to cause all ordinances of the town to be enforced and to attend all meetings of the Board. It shall further be the duty of the Manager within 30 days after the close of each year to require a report to the Board from the various departments of the town government for the previous year and recommend the adjustments as he may see fit, and the Manager shall perform other duties as the Board may from time to time require.
(Ord. passed 3-3-08)

§ 31.01 MAYOR.

The Mayor shall attend and preside over all meetings of the Board. The power and duties of the Mayor shall be such as are conferred upon him by the Board pursuant to law. The Mayor shall be the official head of the town for the purpose of civil service process and for all ceremonial purposes.
('76 Code § 2-2001) (Ord. passed 3-3-08)

Statutory reference:

Similar provisions, see G.S. § 160A-67

§ 31.02 CLERK-TREASURER.

The Clerk-Treasurer (referred to in this Code as the "Clerk") shall be appointed annually by the Board. The Clerk shall:

(A) Give notice of meetings of the Board;

(B) Keep an ordinance book as provided in § 30.23 hereof;

(C) Keep true, accurate and just books of accounts of the dealings and transactions of the town, which books shall show at all times the true condition of the town, its resources and liabilities and the disposition and use of the monies coming under the control of the town;

(D) Keep or cause to be kept in a safe place all monies, records, and accounts;

(E) Disburse funds for the various purposes of the town only when an appropriation for the purpose has been made in the annual budget and the disbursement is authorized by the Board of Aldermen;

(F) Perform other duties as the Board may from time to time require.
('76 Code, § 2-2002)

Statutory reference:

Duties of the Clerk, see G.S. § 160A-171
Duties of the Finance Officer, see G.S. § 159-25
Pre-audit of disbursements, see G.S. § 159-28

§ 31.03 OTHER OFFICERS AND EMPLOYEES; COMPENSATION.

All officers and employees shall receive compensation as from time to time may be prescribed by the Board.
('76 Code, § 2-2003)

Statutory reference:

Compensation of personnel, see G.S. § 160A-162

§ 31.04 CLERK AND OTHER OFFICERS OR EMPLOYEES; BONDS.

The Clerk and other officers or employees required by the Board shall, before entering upon their duties, post bond in amounts specified by the Board. All bond premiums shall be paid from town funds. Provided, that when two offices are combined, the office of Clerk and Treasurer, only one bond shall be required.
('76 Code, § 2-2004)

CHAPTER 32: FINANCE AND REVENUE

Section

Purchasing

32.01 Disbursement of funds
32.02 Purchase orders required

Disposal of Property

32.10 Disposal of personal property valued at less than $5,000

Fiscal Procedures

32.15 Fiscal year
32.16 Collection of taxes in installments

PURCHASING

§ 32.01 DISBURSEMENT OF FUNDS.

No money shall be disbursed from the Town Treasury except in accordance with the Local Government Budget and Fiscal Control Act.
('76 Code, § 2-4001)

§ 32.02 PURCHASE ORDERS REQUIRED.

(A) Before any order is given for items to be paid for by the town or any purchase made by any town employee, amounting to $10 or more, a purchase order must first be obtained from the Clerk.

(B) Any town employee purchasing goods, whose cost is $10 or more, without a purchase order from the Clerk may be held responsible for the cost of same.
('76 Code, § 2-4002)

DISPOSAL OF PROPERTY

§ 32.10 DISPOSAL OF PERSONAL PROPERTY VALUED AT LESS THAN $5,000.

(A) The Town Manager is hereby authorized to dispose of any surplus personal property owned by the town, whenever he or she determines, in his or her discretion, that:

(1) The item or group of items has a fair market value of less than $5,000;

(2) The property is no longer necessary for the conduct of public business; and

(3) Sound property management principles and financial considerations indicate that the interests of the town would best be served by disposing of the property.

(B) The Town Manager may dispose of any such surplus personal property by any means he or she 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 Article 12 of G.S. Chapter 160A. Such sale may be public or private, with or without notice and minimum waiting period.

(C) 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. 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 Aldermen.

(D) For all property sold under the authority of this section, the Town Manager shall keep a record, which 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.

(E) This section is enacted pursuant to G.S. § 160A-266(c).
(Ord. passed 3-2-98)

FISCAL PROCEDURES

§ 32.15 FISCAL YEAR.

The fiscal year of the town shall commence on the first day of July of each year and end on the 30th day of June of the next year.
('76 Code, § 2-4021)

§ 32.16 COLLECTION OF TAXES IN INSTALLMENTS.

The Tax Collector is hereby authorized to collect in partial payments and to give receipts for same. (Ord. passed 6-6-21) ('76 Code, § 2-4022)

CHAPTER 33: DEPARTMENTS, BOARDS AND COMMISSIONS

Section

Police Department

33.01 Organization
33.02 Board to have control
33.03 Chief of Police
33.04 Oath of office; holding other offices
33.05 Powers and duties of policemen
33.06 Extraterritorial jurisdiction of policemen

Fire Department

33.20 Organization
33.21 Duties of Chief
33.22 Chief's duties as Fire Inspector
33.23 General authority at fires
33.24 Interfering with fire alarm apparatus

POLICE DEPARTMENT

§ 33.01 ORGANIZATION.

The Police Department of the town shall consist of a Chief and as many police officers as the Board shall from time to time determine and appoint and as many special police officers as the Manager and Board may deem necessary to appoint for special purposes.
('76 Code, § 3-1001)
Statutory reference:
Law enforcement generally, see G.S. §§ 160A-281 et seq.

§ 33.02 BOARD TO HAVE CONTROL.

The Manager, with the consent of the Board shall have general supervision over the Police Department. Either the Manager or the Board may suspend, for cause, any member of the Police Department until the next regular meeting at which time final disposition shall be made.
('76 Code, § 3-1002)

§ 33.03 CHIEF OF POLICE.

The Chief shall have control over the Police Department under the supervision of the Board. The Chief shall keep the Board informed of the department's activities and shall make reports that the Board may from time to time require. He shall perform other duties as may be required of him by the Board.
('76 Code, § 3-1003)

§ 33.04 OATH OF OFFICE; HOLDING OTHER OFFICES.

Each person appointed or employed as Chief of Police, police officer, or auxiliary police officer shall take and subscribe before some person authorized by law to administer oaths the oath of office required by Article VI, Sec. 7 of the North Carolina Constitution. The oath shall be filed with the Clerk. The offices of police officer, Chief of Police, and auxiliary police officer may be held concurrently with any other appointive office pursuant to Article VI, Sec. 9, of the North Carolina Constitution.
('76 Code, § 3-1004)

§ 33.05 POWERS AND DUTIES OF POLICEMEN.

Each police officer shall:

(A) Have within the corporate limits of the town all of the powers invested in law-enforcement officers in accordance with State law;

(B) Have power to serve all civil and criminal process that may be directed to him by any officer of the General Court of Justice;

(C) Rigidly enforce all laws, ordinances and regulations of the town and the State of North Carolina and report each and every violation thereof as directed;

(D) At all times preserve the peace, protect the property and the safety of the citizens of the town.
('76 Code, § 3-1005)

§ 33.06 EXTRATERRITORIAL JURISDICTION OF POLICEMEN.

(A) In addition to their authority within the corporate limits, police officers shall have all the powers invested in law-enforcement officers within one mile of the corporate limits of the town, and on all property owned by or leased to the town wherever located, in accordance with State law.

(B) When any offense is committed within the corporate limits of the town or within its extra-territorial jurisdiction under circumstances that would authorize a police officer to arrest the offender without a warrant, the officer may pursue the offender outside the corporate limits and outside the town's extraterritorial jurisdiction for a distance of not more than three miles from the corporate limits for the purposes of making an arrest. Any officer pursuing an offender outside the corporate limits or extraterritorial jurisdiction of the town shall be entitled to all of the privileges, immunities, and benefits to which he would be entitled if acting within the town, including coverage under the workmen's compensation laws.
('76 Code, § 3-1006)
Statutory reference:
Extraterritorial jurisdiction of police, G.S. § 160A-286

FIRE DEPARTMENT

§ 33.20 ORGANIZATION.

The Fire Department shall consist of the Chief of the Fire Department and a sufficient number of firefighters (voluntary, part or full time) to maintain and operate the Department. The Board shall appoint the Chief and approve the appointment to the department of all members. The Department may from time to time adopt its own rules and regulations governing the Department subject to the approval of the Board.
('76 Code, § 3-2001)
Cross-references:
For provisions concerning Fire Limits, see Chapter 150
For provisions concerning Fire Prevention, see Chapter 92

Statutory reference:
Fire protection generally, see G.S. §§ 160A-291 et seq.

§ 33.21 DUTIES OF CHIEF.

The Chief, subject to supervision by the Board, shall:

(A) Have general control of the department, the personnel, apparatus, and fire alarm systems;

(B) Command the Department and supervise the firefighting and extinguishing of all fires;

(C) Inspect or cause to be inspected all trucks and other equipment of the fire department to ascertain that the equipment is being kept in proper condition. He shall report annually to the Board the condition of all equipment;

(D) Inspect or cause to be inspected all fire hydrants and fire alarm systems and shall make a report of the inspection to the Board.
('76 Code, § 3-2002)

§ 33.22 CHIEF'S DUTIES AS FIRE INSPECTOR.

(A) The Fire Chief is to assume the function of Fire Inspector. As such, he (or his designated agent) shall have authority to enter any and all premises, at a reasonable time, for purposes of inspection. When reasonably possible, the Chief will notify the owner of property to be inspected of his intention to inspect the property, and the time and date of the inspection. The notice shall be in writing and sent to the owner by registered or certified mail.

(B) Routine inspections. He shall make annual inspections of all structures located within the fire district.

(C) Inspections upon complaint. He shall, upon receipt of a complaint forthwith investigate.

(D) He shall investigate the causes of fires and shall keep records of his findings as to origin, location, owner, extent of damage and injury, and amount of insurance carried. The findings must be reported to the North Carolina Insurance Commissioner at regular intervals.

(E) He shall cause the removal of fire hazards by serving proper orders to the owner or agent of premises in question; the orders to state a reasonable time limit. Failure to comply with the order shall be considered a misdemeanor.
('76 Code § 3-2003)

§ 33.23 GENERAL AUTHORITY AT FIRES.

It shall be unlawful to congregate on the streets or alleys near a fire in a manner which would interfere with the activities of the Fire Department.
('76 Code § 3-2004)

§ 33.24 INTERFERING WITH FIRE ALARM APPARATUS.

No person shall interfere carelessly or willfully with the fire alarm system or injure the poles, wires, boxes, or other apparatus connected therewith.
('76 Code, § 3-2007)
Statutory reference:
Following fire apparatus; driving over fire hose, see G.S. § 20-157.

CHAPTER 34: CIVIL EMERGENCIES

Section

34.01 State of emergency; issuance of public proclamation
34.02 Restrictions which may be imposed
34.03 Form and content of proclamation
34.04 End of state of emergency

34.99 Penalty

§ 34.01 STATE OF EMERGENCY; ISSUANCE OF PUBLIC PROCLAMATION.

(A) 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 or property.

(B) 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 Mayor is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of a state of emergency, and, in order to more effectively protect the lives and property of people within the town, to place in effect any or all of the restrictions hereinafter authorized.

(C) The Mayor is hereby authorized and empowered to limit by the proclamation the application of all or any part of the restrictions to any area specifically designated or described within the corporate limits of the town and to specific hours of the day or night; and to exempt from all or any part of the restrictions; law enforcement officers, firefighters and other public employees, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel whether state or federal; on duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and 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.
('76 Code, § 3-3001 (a) - (c))

§ 34.02 RESTRICTIONS WHICH MAY BE IMPOSED.

During the existence of a proclaimed state of emergency, the Mayor may impose by proclamation any or all of the following restrictions:

(A) Prohibit or regulate the possession off one's own premises of explosives, firearms, ammunition, or dangerous weapons of any kind, and prohibit the purchase, sale, transfer or other disposition thereof;

(B) Prohibit or regulate the buying or selling of beer, wine, or intoxicating beverages of any kind, and their possession or consumption off one's own premises;

(C) Prohibit or regulate any demonstration, parade, march, vigil, or participation therein from taking place on any of the public ways or upon any public property;

(D) Prohibit or regulate the sale of gasoline, kerosene, naphtha, or any other explosive or inflammable fluids or substances:

(E) Prohibit or regulate travel upon any public street, alley, or roadway or upon any other public property, except by those in search of medical assistance, food, or other commodity or service necessary to sustain the well-being of themselves or their families or some member thereof;

(F) Prohibit or regulate the participation in or carrying on of any business activity, and prohibit or regulate the keeping open of places of business, places of entertainment, and any other places of public assembly.
('76 Code, § 3-3001 (e)) Penalty, see § 34.99

§ 34.03 FORM AND CONTENT OF PROCLAMATION.

The proclamation for the declaration of a state of emergency and the imposition of specific prohibitions and restrictions shall take substantially the following form:

"WHEREAS, The governing body of the ____ of _____, _____ has duly adopted an ordinance authorizing the Mayor to determine and proclaim the existence of a state of emergency and to impose various restrictions after he determines that the restrictions are necessary as a response to an emergency.

"NOW THEREFORE, I, _____, Mayor of the _____ of _____ proclaim that:

I. "An emergency exists, and restrictions set forth in this proclamation are necessary in order to maintain an acceptable level of public order, services, and protection of lives, safety, and property during this emergency.

II. "I proclaim the following restrictions:

(A) No person shall be a part of any assembly of three or more persons in the area bounded by the Corporate limits of _____, ____ _____.

(B) Possession, consumption, and transfer of intoxicating liquor.

(1) No person shall possess or consume any intoxicating liquor, including beer and wine, other than on his premises.

(2) No person shall sell or otherwise transfer any intoxicating liquor, including beer and wine.

(C) Curfew.

(1) No person not exempted by this proclamation shall appear in public in the geographic area described in this proclamation between the hours of _____ p.m. and midnight or between the hours of midnight and ____ a.m. of any day until I remove this curfew by proclamation.

(2) This curfew shall apply to the area bounded by

_____

_____

(3) I find it necessary to the preservation of the public health, safety, and welfare to exempt from these curfew restrictions the following classes of people in the circumstances indicated:

(a) Those whose appearance is essential in order to obtain or furnish a service or commodity which is immediately necessary to sustain the health or well-being of themselves or of someone within curfew area.

(b) Those whose appearance necessarily occurs in the process of leaving a place at which they were temporarily engaged and from which they could not reasonably have planned their departure so as to avoid appearing during the period during which the curfew was applicable.

(c)_____

(d)_____

(D) Possession and transfer of dangerous weapons or substances.

(1) No person shall possess any dangerous weapons or substances unless they remain in a place of storage on his premises, or, if they cannot be readily stored on his premises, unless they remain in a customary place of storage not readily available to the possessor. No person may transport or sell or otherwise transfer any dangerous weapons or substances.

(2) I find it necessary to the protection of the public health, safety, and welfare to exempt from these restrictions the following classes of people in the circumstances indicated:

(a) Police officers may possess any weapon necessary to carry out their duties when on active duty.

(b) Anyone may possess gasoline when the gasoline is in the tank of a car in his possession. _____ may transfer _____when _____ _____.

(E) Access to restricted areas.

(1) I direct the Chief of Police and his subordinates to restrict or deny access to any area, location, or street where a restriction is necessary in order to help overcome this emergency or to prevent

the emergency from worsening. These restrictions on access shall be indicated by means of barricades, posted notices, or orders to anyone in the area.

(2) No person shall obtain access or attempt to obtain access to any area, location, or street to which the Chief of Police and his subordinates have restricted access according to the directions I have just given to them.

III. "Anyone violating any restriction imposed by this proclamation or under its authority violates city ordinance and is guilty of a misdemeanor.

IV. "This proclamation shall take effect immediately.

_____
Hour and Date

_____
Mayor

"SEAL OF THE CITY"
(Ord. passed 5-6-68) (Am. '76 Code, § 3-3002)
Statutory reference:
Authority to enact ordinances declaring state of emergency, G.S. § 14-288.12

§ 34.04 END OF STATE OF EMERGENCY.

The Mayor shall proclaim the end of the state of emergency or all or any part of the restrictions imposed as soon as circumstances warrant or when directed to do so by the Board.
('76 Code, § 3-3001 (d))

§ 34.99 PENALTY.

The violation of any provision of this chapter, or of any provision of any restriction imposed by any proclamation authorized by this subchapter, shall constitute a Class 3 misdemeanor, punishable upon conviction by a fine not exceeding $50 or imprisonment not exceeding 30 days, as provided by G.S. § 14-4.
(Ord. passed 5-6-68) (Am. '76 Code, § 3-3003)

CHAPTER 35: TAXATION

Section

35.01 A tax on gross receipts derived from the retail short-term lease or rental of vehicles

35.99 Penalty

§ 35.01 A TAX ON GROSS RECEIPTS DERIVED FROM THE RETAIL SHORT-TERM LEASE OR RENTAL OF VEHICLES.

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

CUSTOMER. Any person that leases or rents a vehicle on a short-term lease or rental basis.

GENERAL STATUTES. The North Carolina General Statutes and any reference to a particular section thereof shall include the same as may be from time to time amended, modified, supplemented, revised or superseded.

GROSS RECEIPTS. The amount that is or would be reported as gross receipts on a business's state income tax return, or on the federal income tax return filed with the state income tax return if the state return does not separately state gross receipts for the most recently completed tax year. Taxes collected hereunder are not subject to the tax herein imposed and are not included in gross receipts.

LEASE OR RENTAL. A transfer, for consideration, of the use but not the ownership of property to another for a period of time (G.S. § 105-164.3(7a)).

LONG-TERM LEASE OR RENTAL. A lease or rental made under a written agreement to lease or rent property to the same person for a period of at least 365 continuous days (G.S. § 105-187.1(3)).

PERSON. Any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.

SHORT-TERM LEASE OR RENTAL. Any lease or rental of a vehicle that is not a long-term lease or rental (G.S. § 160A-215.1(e)(2) and G.S. § 105-187.1(4)).

TAX COLLECTOR. That individual appointed by the governing body (pursuant to G.S. § 105-349 or to the provisions of the municipal charter) to collect taxes on behalf of the town, and any other person authorized to carry out the duties and functions of such individual.

TAXPAYER. Any person liable for the taxes imposed by this section.

VEHICLE. Any of the following:

(1) A motor vehicle of the private passenger type, including a passenger van, minivan, or sport utility vehicle.

(2) A motor vehicle of the cargo type, including a cargo van, pickup truck, or truck with a gross vehicle weight of 26,000 pounds or less used predominantly in the transportation of property for other than commercial freight, and that does not require the operator to possess a commercial drivers license.

(3) A trailer or semitrailer with a gross vehicle weight of 6,000 pounds or less (G.S. 160A-215.1(e)(2)).

(B) Levy of Tax. A tax is hereby imposed and levied in an amount equal to 1.5% of the gross receipts derived from the short-term lease or rental of vehicles at retail to the general public. This tax on gross receipts is in addition to the privilege taxes authorized by G.S. § 160A-211.

(C) Collection of the Tax. At the time of each lease or rental, every person engaged in the business of the short-term lease or rental of vehicles at retail to the general public shall: collect the tax herein levied, place the tax so collected in a segregated account, and thereafter remit such tax to the Tax Collector in accordance with the provisions of this section. In each short-term lease or rental agreement, the taxpayer shall include a provision stating that the percentage amount (enacted by this section) of the total lease or rental price, excluding sales tax, is being charged as a tax on gross receipts. The amount of the tax shall be stated separately from the lease or rental and shown separately on the taxpayer's records. The tax shall be paid by the customer to the taxpayer as trustee for and on account of the town. The taxpayer shall be liable for the collection thereof and for its payment to the Tax Collector; the taxpayer's failure to charge or to collect the tax from the customer shall not affect such liability.

(D) Report and Payment of Tax. Taxes levied under this section are due and payable when a return is required to be filed. Every taxpayer shall, within the time specified, submit a return to the Tax Collector on the form prescribed by the Tax Collector. A return must be signed by the taxpayer or the taxpayer's agent. Returns of taxpayers are due to the Tax Collector each month on or before the fifteenth of the month following the month in which the tax accrues. As provided in G. S. § 160A-208.1, a return shall not be considered a public record and information contained in a return may be disclosed only in accordance therewith.

(E) Taxpayer to Keep Records. The taxpayer shall keep and preserve suitable records of the gross receipts received in the conduct of business and such other books or accounts as may be necessary to determine the amount of the tax for which such taxpayer is liable under the provisions of this section. It shall be the duty of the taxpayer to keep and preserve for a period of three years all such records of gross receipts and other books and accounts described. All records, books and accounts herein described shall be open for examination at all reasonable hours during the day by the Tax Collector or his duly authorized agent.

(F) Tax Collector to Provide Forms. To insure a full collection of and accounting for taxes due, the Tax Collector shall design, prepare and print forms and instructions for filing returns; and shall make them available to all taxpayers operating within the municipal boundaries of the town. Failure to obtain or receive forms shall not relieve a taxpayer from the payment of the tax at the time and in the manner provided.

(G) Situs. The transaction giving rise to the tax herein levied shall be deemed to have occurred at the location of the entity from which the customer takes delivery of the vehicle (G.S. § 160A-215.1(b)).

(H) Administration. In addition to the provisions herein, the levy and collection of the taxes herein imposed shall be otherwise administered in the same manner as the tax levied under G.S. § 105-164.4(a)(2) (G.S. § 160A-215.1(d)).

(I) Authority. This section is enacted pursuant to the provisions of G.S. § 160A-215.1.

(J) Effective Date. This Ordinance and the taxes thereby levied and imposed shall become effective July 1, 2000.
(Ord. passed 6-20-00) Penalty, see § 35.99

§ 35.99 PENALTY.

The provisions with respect to remedies and penalties applicable to Subchapter VIII (Local Government Sales and Use Tax) of Chapter 105 of the General Statutes, as contained in Article 5 and Article 9, Subchapter 1, Chapter 105 thereof, shall be applicable in like manner to taxes authorized to be levied and collected under this chapter, to the extent that the same are not inconsistent with the provisions hereof. The governing body of the town may exercise any power the Secretary of Revenue may exercise in collecting sales and use taxes (G.S. § 160A-215.1(f)).
(Ord. passed 6-20-00)

TITLE V: PUBLIC WORKS

Chapter

50. GARBAGE AND REFUSE

51. SEWERS

52. WATER

CHAPTER 50: GARBAGE AND REFUSE

Section

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§ 50.01 DEFINITIONS.

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

BUILDING MATERIAL SCRAPS. Scrap building material from the construction, reconstruction, remodeling or repair of a building, walkway, driveway, sign and other structure, including but not limited to, excavated earth, tree stumps, rocks, gravel, bricks, plaster, concrete, lumber or any other similar material used in construction or in the containers or wrappings therefor.

GARBAGE. All putrescible wastes, including animal and vegetable matter, animal offal and carcasses, and recognizable industrial byproducts, but excluding sewage and human wastes.

REFUSE. All nonputrescible wastes.

SOLID WASTE. Garbage, refuse, rubbish, trash, and other discarded solid materials, including solid waste materials resulting from homes, businesses, industrial, commercial, and agricultural operations, and from community activities, but does not include solids or dissolved materials in domestic sewage or other significant pollutants.

TREE TRIMMINGS. Tree limbs, leaves, shrubbery trimmings and cuttings and all other trimmings from the natural growth of trees, shrubbery, weeds, plants or grass.
('76 Code, § 4-2001)

§ 50.02 REFUSE REQUIRED TO BE DEPOSITED IN APPROVED CONTAINERS.

It shall be unlawful for any person to throw, place or deposit any garbage or refuse of any kind on any public or private property except in approved containers or as otherwise provided in this subchapter.
('76 Code, § 4-2002) Penalty, see § 10.99

§ 50.03 BURNING OR BURYING GARBAGE AND REFUSE REGULATED.

It shall be unlawful to burn or set fire to or bury any garbage for the purpose of disposal unless a permit therefor has been granted by the Fire Chief.
('76 Code, § 4-2003) Penalty, see § 10.99

§ 50.04 ACCUMULATION OF GARBAGE AND REFUSE PROHIBITED.

All garbage and refuse shall be collected and placed in containers as required by this chapter and it shall be unlawful for any person to permit garbage or refuse to accumulate or remain on any premises longer than is reasonably necessary to remove and deposit same in approved containers as required herein.
('76 Code, § 4-2004) Penalty, see § 10.99

§ 50.05 CONTAINERS REQUIRED.

The occupant of every building or premises where garbage and refuse does or may exist shall provide containers made of substantial galvanized iron, plastic, rubber or other non-rusting material in which shall be deposited all garbage and refuse existing at the building or premises. Each container shall be

provided with handles or bails and with a tight fitting cover made of the same material as the container. All containers shall be water tight and they shall be of a size that can be conveniently handled by the collectors, and no containers shall be more than 32 gallons in capacity and measure not more than 22 inches in diameter nor 30 inches in height. All containers shall be kept in a reasonably clean manner by the use of lye or other effective cleaner. The other provisions of this subchapter notwithstanding, commercial containers approved by the town and emptied by contract with the town for a fee are permissible, regardless of size or capacity.
('76 Code, § 4-2005)

§ 50.06 PRE-COLLECTION PRACTICES.

All garbage and refuse shall have the liquid drained therefrom and shall be wrapped in paper or other like material before it is placed in the container for collection. Ashes and cinders shall be placed in a separate container provided for that purpose and no ashes shall be deposited in any container until they are cold. Containers which fail to have a top as required in § 50.05 above or which become rusted or broken and therefore are unable to contain garbage and refuse in a satisfactory manner will not be used.
('76 Code, § 4-2006)

§ 50.07 LOCATION OF CONTAINERS.

Containers shall not be placed adjacent to the street or sidewalk except on the days when garbage is to be collected. A schedule of collection shall be kept on file at the Clerk's office. When collection schedules are altered from time to time, notice of the change shall be given by publishing the new schedule in a newspaper having general circulation in the town. Garbage containers shall be removed from their positions adjacent to the street or sidewalk after the contents have been emptied on that same day. Provided, that at places of business or manufacturing, empty containers shall not be left on the street for more than 30 minutes between the hours of 9:00 a.m. and 4:00 p.m.
('76 Code, § 4-2007)

§ 50.08 UNLAWFUL TO DISPLACE CONTAINERS.

It shall be unlawful for any person to damage, displace, or otherwise interfere with garbage containers or their contents except the owner or upon permission or at the request of the owner.
('76 Code, § 4-2008) Penalty, see § 10.99

§ 50.09 SPECIAL OR BULK COLLECTIONS REGULATED.

(A) No bulk trash, tree limbs, shrubbery cuttings, leaves and other refuse will be collected without charge unless the refuse can be placed in regulation type garbage cans. Provided, however, that limbs, tree trunks, tree and bush cuttings are of the size that can be readily loaded in regulation garbage trucks in amounts not in excess of one-half a truck load for any one residence or place of business. In this event no charge will be made for the collection.

(B) Any property owner desiring special bulk collections of loose matter not in closed containers or tied in bundles may request a special collection for which a charge will be made. If sufficient manpower and equipment are available, town personnel are authorized to make the special collections, provided, the person making the request agrees to pay for the labor and equipment used at the rate specified by the Town Clerk.

(C) No collection shall be made from vacant lots nor shall any large rocks, tree trunks, tree stumps, tree limbs of more than 8 feet in length or other heavy objects be collected by the town. No waste building materials or lot clearings shall be collected from houses or other structures under construction or recently completed.

(D) Material to be collected by special collections shall be placed in neat piles and so located that the refuse can be easily loaded on trucks for disposal.
('76 Code, § 4-2009)

§ 50.10 RATES, CHARGES AND BILLING.

(A) Town-owned mechanical container pick-up. Commercial. (The table begins on the following page.)

Number of Pick-Ups per Week
Cost per month

Size (cu. yd.)	**1**	**2**	**3**	**4**	**5**	**6**
1	$26	$30	$34	$39	$43	$49
2	27	31	35	40	44	50
3	28	32	36	41	45	51
4	29	33	37	42	46	52

(1) The above charges will pay for the automatic containers being serviced as the above schedule and the town will be responsible for the upkeep.

(2) The customer desiring a mechanical container will be responsible for erecting a suitable concrete slab, situated so that the container can be serviced by the mechanical hydraulic lift truck.

(B) Customer owned mechanical container pick-up. Commercial.

Number of Pick-Ups per Week
Cost per Month

1	***2***	***3***	***4***	***5***	***6***
$11	$17	$22	$28	$33	$39

The above charges will pay for the automatic container being serviced as above schedule and the customer will be responsible for the upkeep.

(C) Customer-owned garbage cans. Commercial.

Number of Pick-Ups per Week
Cost per Month

1	***2***	***3***	***4***	***5***	***6***
$9	$18	$27	$35	$44	$52

The above charges will pay for garbage cans being serviced as the above schedule and customer will be responsible for can replacement.

(D) Two or more business buildings may jointly utilize one container and share the above applicable charge. The town may require any user or co-user to be furnished with a larger container or two containers or more where the container is deemed by the Director of Public Works to be insufficient to hold the refuse of the user or co-users when the container is being serviced.

(E) Billing will be made monthly to one user only.

(F) Residences will be serviced at the rate of $5 per month on a year round basis. The maximum size container will be 30 gallons.
(Ord. passed 2-12-80; Am. Ord. passed 7-1-93)

CHAPTER 51: SEWERS

Section

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GENERAL PROVISIONS

§ 51.001 PURPOSE AND POLICY.

(A) This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the Town of Franklin, hereafter referred to as the town, and enables the town to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 *et seq.*) and the General Pretreatment Regulations (40 CFR, Part 403).

(B) The objectives of this chapter are:

(1) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the State or otherwise be incompatible with the system;

(3) To promote reuse and recycling of industrial wastewater and sludges from the municipal system;

(4) To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;

(5) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and

(6) To ensure that the municipality complies with its NPDES or non-discharge permit conditions, sludge use and disposal requirements and any other federal or state laws to which the municipal wastewater system is subject.

(C) This chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(D) This chapter shall apply to all users of the municipal wastewater system, as authorized by G.S. § 160A-312 and/or G.S. § 153A-275. The town shall designate an administrator of the POTW and pretreatment program hereafter referred to as the POTW Director. Except as otherwise provided herein, the POTW Director shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or imposed upon the POTW Director may be delegated by the POTW Director to other town personnel. By discharging wastewater into the municipal wastewater system, industrial users located outside the town limits agree to comply with the terms and conditions established in this chapter, as well as any permits, enforcement actions, or orders issued hereunder.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.002 DEFINITIONS AND ABBREVIATIONS.

(A) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) ***ACT OR "THE ACT".*** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251, et seq.

(2) ***APPROVAL AUTHORITY.*** The Director of the Division Of Water Quality of the North Carolina Department of Environment and Natural Resources or his designee.

(3) ***AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER.***

(a) If the industrial user is a corporation, authorized representative shall mean:

1. The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

2. The manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment RECOMMENDATIONS, and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws

and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.

(c) If the industrial user is a federal, state or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in divisions (A)(3)(a) through (A)(3)(c) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the town.

(e) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to POTW Director prior to or together with any reports to be signed by an authorized representative.

(4) ***BIOCHEMICAL OXYGEN DEMAND (BOD).*** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20° centigrade, usually expressed as a concentration (e.g. mg/l).

(5) ***BUILDING SEWER.*** A sewer conveying wastewater from the premises of a user to the POTW.

(6) ***BYPASS.*** The intentional diversion of wastestreams from any portion of a user's treatment facility.

(7) ***CATEGORICAL STANDARDS.*** National Categorical Pretreatment Standards or Pretreatment Standard.

(8) ***ENVIRONMENTAL PROTECTION AGENCY OR EPA.*** The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

(9) ***GRAB SAMPLE.*** A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

(10) ***HOLDING TANK WASTE.*** Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(11) ***INDIRECT DISCHARGE OR DISCHARGE.*** The discharge or the introduction from any nondomestic source regulated under section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(12) ***INDUSTRIAL USER OR USER.*** Any person which is a source of indirect discharge.

(13) ***INTERFERENCE.*** The inhibition, or disruption of the POTW treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES or non-discharge permit or prevents sewage sludge use or disposal in compliance with specified applicable state and federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA)(42 U.S.C. §6901, *et seq.*), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

(14) ***MEDICAL WASTE.*** Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(15) ***NATIONAL CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD.*** Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. §1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

(16) ***NATIONAL PROHIBITIVE DISCHARGE STANDARD OR PROHIBITIVE DISCHARGE STANDARD.*** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 51.010 and are developed under the authority of 307(b) of the Act and 40 CFR, section 403.5.

(17) ***NEW SOURCE.***

(a) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with section 307(c), provided that:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or

2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of division (A)(18)(a)2. or (A)(18)(a)3. above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) For purposes of this definition, construction of a new source has commenced if the owner or operator has:

1. Begun, or caused to begin, as part of a continuous on-site construction program:

a. Any placement, assembly, or installation of facilities or equipment; or

b. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

(18) ***NONCONTACT COOLING WATER.*** Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(19) ***NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM, OR NPDES, PERMIT.*** A permit issued pursuant to section 402 of the Act (33 U.S.C. §1342), or pursuant to G.S. § 143-215.1 by the state under delegation from EPA.

(20) ***NON-DISCHARGE PERMIT.*** A disposal system permit issued by the state pursuant to G.S. § 143-215.1.

(21) ***PASS THROUGH.*** A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's NPDES or non-discharge permit, or a downstream water quality standard.

(22) ***PERSON.*** Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their or their legal representatives, agents or assigns. This definition includes all federal, state, and local government entities.

(23) ***pH.*** A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(24) ***POLLUTANT.*** Any "waste" as defined in G.S. § 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

(25) ***POTW DIRECTOR.*** The Town Administrator designated with the responsibility for the pretreatment program and enforcement of this chapter.

(26) ***POTW TREATMENT PLANT.*** That portion of the POTW designed to provide treatment to wastewater.

(27) ***PRETREATMENT OR TREATMENT.*** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

(28) ***PRETREATMENT PROGRAM.*** The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the town in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by G.S. § 143-215.3(a)(14) in accordance with 40 CFR 403.11.

(29) ***PRETREATMENT REQUIREMENTS.*** Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

(30) ***PRETREATMENT STANDARDS.*** Prohibited discharge standards, categorical standards, and local limits.

(31) ***PUBLICLY OWNED TREATMENT WORKS (POTW)*** or ***MUNICIPAL WASTEWATER SYSTEM.*** A treatment works as defined by section 212 of the Act, (33 U.S.C. § 1292) which is owned in this instance by the town. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the town who are, by contract or agreement with the town, or in any other way, users of the POTW of the town.

(32) ***SEVERE PROPERTY DAMAGE.*** Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(33) ***SIGNIFICANT INDUSTRIAL USER.*** Any industrial user of the wastewater disposal system who:

(a) Has an average daily process wastewater flow of 25,000 gallons or more; or

(b) Contributes more than 5% of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge; or

(c) Is required to meet a National Categorical Pretreatment Standard; or

(d) Is found by the town, the Division Of Water Quality or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.

(34) ***SIGNIFICANT NONCOMPLIANCE OR REPORTABLE NONCOMPLIANCE.*** A status of noncompliance defined as follows:

(a) Violations of wastewater discharge limits.

1. Chronic Violations. Sixty-six percent or more of the measurements exceed (by any magnitude) the same daily maximum limit or the same average limit in a six-month period.

2. Technical Review Criteria (TRC) violations. Thirty-three percent or more of the measurements are equal to or greater than the TRC times the limit (maximum or average) in a six-month period. There are two groups of TRCs:

a. For the conventional pollutants: BOD, TSS, fats, oil and grease TRC = 1.4.

b. For all other pollutants TRC = 1.2

3. Any other violation(s) of an effluent limit (average or daily maximum) that the control authority believes has caused, alone or in combination with other discharges, interference or pass-through; or endangered the health of the sewage treatment plant personnel or the public.

4. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(b) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.

(c) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date.

(d) Failure to accurately report noncompliance.

(e) Any other violation or group of violations that the control authority considers to be significant.

(35) ***SLUG LOAD OR DISCHARGE.*** Any discharge at a flow rate or concentration which has a reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or Industrial User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in § 51.010.

(36) ***STANDARD INDUSTRIAL CLASSIFICATION (SIC).*** A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.

(37) ***STORM WATER.*** Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(38) ***SUPERINTENDENT OR DIRECTOR/ SUPERINTENDENT.*** The person designated by the town to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(39) ***SUSPENDED SOLIDS.*** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

(40) ***UPSET.*** An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities lack of preventive maintenance, or careless or improper operation.

(41) ***WASTEWATER.*** The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.

(42) ***WASTEWATER PERMIT.*** As set forth in § 51.041.

(43) ***WATERS OF THE STATE.*** All streams, lakes, ponds, marshes, watercourse, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

(B) This chapter is gender neutral and the masculine gender shall include the feminine and vice-versa.

(C) Shall is mandatory; may is permissive or discretionary.

(D) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

(E) The following abbreviations when used in this chapter, shall have the designated meanings:

(1) BOD Biochemical Oxygen Demand

(2) CFR Code of Federal Regulations

(3) COD Chemical Oxygen Demand

(4) EPA Environmental Protection Agency

(5) gpd Gallons per day

(6) l Liter

(7) mg Milligrams

(8) mg/l Milligrams per liter

(9) N.C.G.S. North Carolina General Statutes

(10) NPDES National Pollution Discharge Elimination System

(11) O & M Operation and Maintenance

(12) POTW Publicly-Owned Treatment Works

(13) RCRA Resource Conservation and Recovery Act

(14) SIC Standard Industrial Classification

(15) SWDA Solid Waste Disposal Act

(16) TSS Total Suspended Solids

(17) TKN Total Kjeldahl Nitrogen

(18) U.S.C. United States Code.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

GENERAL SEWER USE REQUIREMENTS

§ 51.010 PROHIBITED DISCHARGE STANDARDS.

(A) General prohibitions. No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state, or local pretreatment standards or requirements.

(B) Specific prohibitions. No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.

(2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch (1/2") in any dimension.

(3) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

(4) Any wastewater having a pH less than 6.5 or more than 9.5 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.

(5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.

(6) Any wastewater having a temperature greater than 150° F (66° C), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).

(7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(8) Any trucked or hauled pollutants, except at discharge points designated by the POTW Director in accordance with § 51.018 of this chapter.

(9) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

(11) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatibility of fish or aesthetic quality or impair the receiving waters for any designated uses.

(12) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW Director in compliance with applicable state or federal regulations.

(13) Storm water, surface water, ground water, arterisan well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW Director.

(14) Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/1.

(15) Any sludges, screenings or other residues from the pretreatment of industrial wastes.

(16) Any medical wastes, except as specifically authorized by the POTW Director in a wastewater discharge permit.

(17) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the mucicipal wastewater system.

(18) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the POTW Director.

(19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B .0200.

(20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

(21) Recognizable portions of the human or animal anatomy.

(22) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.

(23) At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than 5% nor any single reading over 10% of the lower explosive limit (LEL) of the meter.

(C) Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.

(D) When the POTW Director determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass through, the POTW Director shall:

(1) Advise the user(s) of the potential impact of the contribution on the POTW in accordance with § 51.090; and

(2) Take appropriate actions in accordance with §§ 51.040 and 51.041 for such user to protect the POTW from interference or pass through.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.011 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

(A) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the POTW Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

(B) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW Director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(C) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(D) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.012 LOCAL LIMITS.

(A) An industrial waste survey is required prior to a User discharging wastewater containing in excess of the following average discharge limits.

BOD	250	mg/l
TSS	250	mg/l
TKN	40	mg/l
Arsenic	0.003	mg/l
Cadmium	0.003	mg/l
Copper	0.061	mg/l
Cyanide	0.015	mg/l
Lead	0.049	mg/l
Mercury	0.0003	mg/l
Nickel	0.021	mg/l
Silver	0.005	mg/l
Chromium	0.05	mg/l (total chromium)
Zinc	0.175	mg/l

(B) Industrial waste survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits. The POTW Director may impose mass based limits in addition to, or in place of concentration based limits.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.013 STATE REQUIREMENTS.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.014 RIGHT OF REVISION.

The town reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulation if deemed necessary to comply with the objectives presented in § 51.001 of this chapter or the general and specific prohibitions in § 51.010 of this chapter, as is allowed by 40 CFR 403.4.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.015 DILUTION.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the town or state.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.016 PRETREATMENT OF WASTEWATER.

(A) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this chapter and wastewater permits issued under § 51.041 of this chapter and shall achieve compliance with all National Categorical Pretreatment Standards, local limits, and the prohibitions set out in § 51.010 of this chapter within the time limitations as specified by EPA, the state, or the POTW Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans

showing the pretreatment facilities and operating procedures shall be submitted to the town for review, and shall be approved by the POTW Director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW Director prior to the user's initiation of the changes.

(B) *Additional pretreatment measures.*

(1) Whenever deemed necessary, the POTW Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

(2) The POTW Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the POTW Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the POTW Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

(4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.017 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.

(A) The POTW Director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in § 51.002(A)(36). All SIUs must be evaluated within one year of being designated an SIU. The POTW Director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the POTW Director may develop such a plan for any user.

(B) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see §§ 51.054 and 51.055.

(C) An accidental discharge/slug control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW Director of any accidental or slug discharge, as required by § 51.055 of this chapter; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.018 HAULED WASTEWATER.

(A) Septic tank waste may be introduced into the POTW only at locations designated by the POTW Director, and at such times as are established by the POTW Director. Such waste shall not violate §§ 51.010 through 51.018 of this chapter or any other requirements established by the town. The POTW Director may require septic tank waste haulers to obtain wastewater discharge permits.

(B) The POTW Director shall require haulers of industrial waste to obtain wastewater discharge permits. The POTW Director may require generators of hauled industrial waste to obtain wastewater discharge permits. The POTW Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.

(C) Industrial waste haulers may discharge loads only at locations designated by the POTW Director. No load may be discharged without prior consent of the POTW Director. The POTW Director may collect samples of each hauled load to ensure compliance with applicable standards. The POTW Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(D) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

FEES

§ 51.030 PURPOSE.

It is the purpose of this subchapter to provide for the recovery of costs from users of the wastewater disposal system of the town for the implementation of the program established herein. The applicable charges or fees shall be set forth in a schedule of sewer use charges and fees by the POTW Director and approved by the Town Board. A copy of these charges and fees will be made available from the POTW Director.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.031 USER CHARGES.

A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

(A) The user charge shall reflect, at least, the cost of debt service, operation and maintenance (including replacement) of the POTW.

(B) Each user shall pay its proportionate cost based on volume of flow.

(C) The Manager of the town shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the Council or Board serving the town for adjustments in the schedule of charges and fees as necessary.

(D) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.032 SURCHARGES.

The amount of the surcharges will be based upon:

(A) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:

(1) Metered water consumption as shown in the records of meter readings maintained by the town; or

(2) If required by the town or at the individual dischargers option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the town. The metering system shall be installed and maintained at the users expense according to arrangements that may be made with the town.

(3) Where any user procures all or part of his water supply from sources other than the town, the user shall install and maintain at his own expense a flow measuring device of a type approved by the town.

(B) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the town. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136.

(C) The determination of the character and concentration of the constituents of the wastewater discharge by the POTW Director or his or her duly appointed representatives shall be binding as a basis for charges.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.033 PRETREATMENT PROGRAM ADMINISTRATION CHARGES.

The schedule of charges and fees adopted by the town may include charges and fees for:

(A) Reimbursement of costs of setting up and operating the Pretreatment Program;

(B) Monitoring, inspections and surveillance procedures;

(C) Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;

(D) Permitting;

(E) Other fees as the town may deem necessary to carry out the requirements of the Pretreatment Program.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE

§ 51.040 WASTEWATER DISCHARGERS.

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the town. When requested by the POTW Director, a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. The POTW Director is authorized to prepare a form for this purpose and may periodically require users to update this information.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.041 WASTEWATER PERMITS.

All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the POTW Director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW Director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the POTW Director be required to obtain a wastewater discharge permit for non-significant industrial users.

(A) *Significant industrial user determination.* All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the POTW Director a significant industrial user determination. If the POTW Director determines or suspects that the proposed discharge fits the significant industrial user criteria he or she will require that a significant industrial user permit application be filed.

(B) *Significant industrial user permit application.* Users required to obtain a significant industrial user permit shall complete and file with the town, an application in the form prescribed by the POTW Director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW Director's determination in § 51.041(A) above. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

(1) Name, address, and location, (if different from the address);

(2) Standard Industrial Classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated;

(3) Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in §§ 51.010 through 51.018 of this chapter, any of the priority pollutants (section 307(a) of the Act) which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR, Part 136, as amended and as required in §§ 51.059 and 51.060;

(4) Time and duration of the indirect discharge;

(5) Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;

(6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location and elevation;

(7) Description of activities, facilities and plant processes on the premises including all materials which are or could be accidentally or intentionally discharged;

(8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any town, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;

(9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine months.

(b) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW Director including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the POTW Director.

(10) Each product produced by type, amount, process or processes and rate of production;

(11) Type and amount of raw materials processed (average and maximum per day);

(12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(13) If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 403.12(b) and 15A NCAC 2H .0908(a), as outlined in § 51.050 of this chapter.

(14) Any other information as may be deemed by the POTW Director to be necessary to evaluate the permit application.

(C) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the control authority and/or municipality as defined in § 51.002(A)(3) and contain the following certification statement:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(D) *Application review and evaluation.* The POTW Director will evaluate the data furnished by the user and may require additional information.

(1) The POTW Director is authorized to accept applications for the town and shall refer all applications to the POTW staff for review and evaluation.

(2) Within 30 days of receipt the POTW Director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

(E) *Tentative determination and draft permit.*

(1) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.

(2) If the staffs tentative determination in division (E)(1) above is to issue the permit, the following additional determinations shall be made in writing:

(a) Proposed discharge limitations for those pollutants proposed to be limited;

(b) A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and

(c) A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.

(3) The staff shall organize the determinations made pursuant to divisions (E) (1) and (E)(2) above; and the general permit conditions of the town into a significant industrial user permit.

(F) *Permit synopsis.* A fact sheet providing a brief synopsis of the application shall be prepared by the POTW staff for submission to the applicant and the approval authority and shall be made available to the public upon request. The contents of such fact sheets shall include at least the following information:

(1) A sketch and detailed description of the industrial facilities and pretreatment facilities including the location of all points of discharge to the POTW and all established compliance monitoring points.

(2) A quantitative description of the discharge described in the application which includes at least the following:

(a) The rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow;

(b) The actual average daily discharge in pounds per day of any limited pollutant and any pollutant identified in the application as known or suspected present; and

(c) The basis for the pretreatment limitations including the documentation of any calculations in applying categorical pretreatment standards.

(G) *Final action on significant industrial user permit applications.*

(1) The POTW Director shall take final action on all applications not later than 90 days following receipt of a complete application.

(2) The POTW Director is authorized to:

(a) Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this chapter and G.S. § 143-215.1;

(b) Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;

(c) Modify any permit upon not less than 60 days notice and pursuant to division (I) of this section;

(d) Revoke any permit pursuant to § 51.090 of this chapter;

(e) Suspend a permit pursuant to § 51.090 of this chapter;

(f) Deny a permit application when in the opinion of the POTW Director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. § 143-215.1.

(H) *Hearings.* The local government may conduct hearings in accordance with its regular hearing procedure.

(1) *Initial adjudicatory hearing.* An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under § 51.091, or one issued an administrative order under § 51.090 shall have the right to an adjudicatory hearing before a hearing officer designated by the POTW Director upon making written demand, identifying the specific issues to be contested , to the POTW Director within 30 days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding. The hearing officer shall make a final decision on the contested permit, penalty, or order within 45 days of the receipt of the written demand for a hearing. The POTW Director shall transmit a copy of the hearing officer's decision by registered or certified mail.

(a) *New permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(b) *Renewed permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(2) *Final appeal hearing.* Any decision of a hearing officer made as a result of an adjudicatory hearing held under division (H)(1) above may be appealed, to the Council or Board serving the town upon filing a written demand within ten days of receipt of notice of the decision. Hearings held under this subdivision shall be conducted in accordance with local hearing procedures. Failure to make written demand within the time specified herein shall bar further appeal. The Council or Board serving the town shall make a final decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.

(3) *Official record.* When a formal decision is issued under division (H)(2) above, the Council or Board serving the town shall prepare an official record of the case that includes:

(a) All notices, motions, and other like pleadings;

(b) A copy of all documentary evidence introduced;

(c) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.

(d) A copy of the final decision of the Council or Board serving the town.

(4) *Judicial review.* Any person against whom a final order or decision of the Council or Board serving the town is entered, pursuant to the hearing conducted under division (H)(2) above, may seek judicial review of the order or decision by filing a written petition within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the Superior Court of Macon County along with a copy to the town. Within 30 days after receipt of the copy of the petition of judicial review, the Council or Board serving the town shall transmit to the reviewing court the original or a certified copy of the official record.

(I) *Permit modification.*

(1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as follows:

(a) Changes in the ownership of the discharge when no other change in the permit is indicated;

(b) A single modification of any compliance schedule not in excess of four months;

(c) Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(2) Within nine months of the promulgation of a National Categorical Pretreatment Standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a wastewater discharge permit as required by division (B), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard.

(3) A request for a modification by the permittee shall constitute a waiver of the 60 day notice required by G.S. § 143-215.1(b) for modifications.

(J) *Permit conditions.*

(1) The POTW Director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this chapter and G.S. § 143-215.1. Wastewater permits shall contain, but are not limited to, the following:

(a) A statement of duration (in no case more than five years);

(b) A statement of non-transferability;

(c) Applicable effluent limits based on categorical standards or local limits or both;

(d) Applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law;

(e) Requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in § 51.002(A)(36);

(f) Requirements to implement a plan or other controls for prevention of accidental discharges and/or slug loads as defined in § 51.002(A)(36), if determined by the POTW Director to be necessary for the user;

(g) Requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in § 51.002(A)(36). Also see §§ 51.054 and 51.055; and

(h) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

(2) In addition, permits may contain, but are not limited to, the following:

(a) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.

(b) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.

(c) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

(d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.

(e) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.

(f) Requirements for installation and maintenance of inspection and sampling facilities and equipment.

(g) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

(h) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation(s).

(i) Compliance schedules for meeting pretreatment standards and requirements.

(j) Requirements for submission of periodic self-monitoring or special notification reports.

(k) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in § 51.062 and affording the POTW Director, or his representatives, access thereto.

(l) Requirements for prior notification and approval by the POTW Director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.

(m) Requirements for the prior notification and approval by the POTW Director of any change in the manufacturing and/or pretreatment process used by the permittee.

(n) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the terms of the permit.

(o) Other conditions as deemed appropriate by the POTW Director to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

(K) *Permit duration.* Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.

(L) *Permit transfer.* Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

(M) *Permit reissuance.* A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with this section a minimum of 180 days prior to the expiration of the existing permit.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

REPORTING REQUIREMENTS

§ 51.050 BASELINE MONITORING REPORTS.

(A) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW Director a report which contains the information listed in division (B), below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the POTW Director a report which contains the information listed in division (B), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(B) Users described above shall submit the information set forth below.

(1) *Identifying information.* The name and address of the facility, including the name of the operator and owner.

(2) *Environmental permits.* A list of any environmental control permits held by or for the facility.

(3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(5) *Measurement of pollutants.*

(a) The categorical pretreatment standards applicable to each regulated process.

(b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW Director/Superintendent, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 51.059 of this chapter.

(c) Sampling must be performed in accordance with procedures set out in § 51.060 of this chapter and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).

(6) *Certification.* A statement, reviewed by the current user's authorized representative as defined in § 51.002(A)(3) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 51.051 of this chapter.

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with § 51.041(C) of this chapter.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.051 COMPLIANCE SCHEDULE PROGRESS REPORTS.

The following conditions shall apply to the compliance schedule required by § 51.050(B)(7) of this chapter:

(A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(B) No increment referred to above shall exceed nine months;

(C) The user shall submit a progress report to the POTW Director no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(D) In no event shall more than nine months elapse between such progress reports to the POTW Director.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.052 REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD, DEADLINE.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the POTW Director a report containing the information described in § 51.050(B)(4) - (B)(6) of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 51.041(C) of this chapter.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.053 PERIODIC COMPLIANCE REPORTS.

Municipalities may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

(A) All significant industrial users shall, at a frequency determined by the POTW Director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in §§ 51.059 and 51.060 of this chapter. All periodic compliance reports must be signed and certified in accordance with § 51.041(C) of this chapter.

(B) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW Director, using the procedures prescribed in §§ 51.059 and 51.060 of this chapter, the results of this monitoring shall be included in the report.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.054 REPORTS OF CHANGED CONDITIONS.

Each user must notify the POTW Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change. See § 51.055(D) for other reporting requirements.

(A) The POTW Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 51.041 of this chapter.

(B) The POTW Director may issue a wastewater discharge permit under § 51.041 of this chapter or modify an existing wastewater discharge permit under § 51.041 of this chapter in response to changed conditions or anticipated changed conditions.

(C) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 20% or greater, and the discharge of any previously unreported pollutants.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.055 REPORTS OF POTENTIAL PROBLEMS.

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, as defined in § 51.002(A)(36), that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW Director/ Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) Within five days following such discharge, the user shall, unless waived by the POTW Director, submit a detailed written report describing the

cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(C) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in division (A), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(D) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in § 51.002(A)(36).
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.056 REPORTS FROM UNPERMITTED USERS.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW Director as the POTW Director may require.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.057 NOTICE OF VIOLATION/REPEAT SAMPLING AND REPORTING.

(A) If sampling performed by a user indicates a violation, the user must notify the POTW Director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW Director within 30 days after becoming aware of the violation. If allowed by the POTW Director the user is not required to resample:

(1) If the POTW Director monitors at the user's facility at least once a month; or

(2) If the POTW Director samples between the user's initial sampling and when the user receives the results of this sampling.

(B) If the POTW Director does not require the user to perform any self-monitoring and the POTW sampling of the user indicates a violation, the POTW Director shall repeat the sampling and obtain the results of the repeat analysis within 30 days after becoming aware of the violations, unless one of the following occurs:

(1) The POTW Director monitors at the user's facility at least once a month; or

(2) The POTW Director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or

(3) The POTW Director requires the user to perform sampling and submit the results to the POTW Director within the 30-day deadline of the POTW becoming aware of the violation.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.058 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.

The town prohibits the discharge of any hazardous wastes without notification and approval of the POTW Director.

(A) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this division need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under § 51.054 of this chapter. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 51.050, 51.052 and 51.052 of this chapter.

(B) Dischargers are exempt from the requirements of division (A), above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(C) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(D) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(E) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.059 ANALYTICAL REQUIREMENTS.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.060 GRAB AND COMPOSITE SAMPLE COLLECTION.

(A) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(B) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the user's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number requirements for BMR and 90-day compliance reports. Additionally, the POTW Director may allow collection of multiple grabs during a 24-hour period which are composited prior to analysis as allowed under 40 CFR 136.

(C) Composite samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the POTW Director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.061 TIMING.

Written reports will be, deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.062 RECORD KEEPING.

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the

duration of any litigation concerning the user or the town, or where the user has been specifically notified of a longer retention period by the POTW Director.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

COMPLIANCE MONITORING

§ 51.070 MONITORING FACILITIES.

(A) The town requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the town may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(B) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(C) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the requirements of the town and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the town.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.071 INSPECTION AND SAMPLING.

The town will inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the town, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The town, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the town, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the POTW Director's/ Superintendent's, approval authority's, or EPA's access to the user's premises shall be a violation of this chapter. Unreasonable delays may constitute denial of access.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.072 SEARCH WARRANTS.

If the POTW Director, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the town designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the POTW Director, approval authority, or EPA may seek issuance of a search warrant from the General Court with jurisdiction of the town.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

CONFIDENTIAL INFORMATION

§ 51.080 CONFIDENTIAL INFORMATION.

(A) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the POTW Director/ Superintendent that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

(B) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this chapter, the

National Pollutant Discharge Elimination System (NPDES) Permit, non-discharge permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(C) All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority and EPA upon request.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

ENFORCEMENT

§ 51.090 ADMINISTRATIVE REMEDIES.

(A) *Notification of violation.* Whenever the POTW Director finds that any industrial user has violated or is violating this chapter, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the POTW Director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the town by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(B) *Consent orders.* The POTW Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to division (D), below.

(C) *Show cause hearing.*

(1) The POTW Director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this chapter or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the POTW Director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

(2) The POTW Director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

(3) A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under § 51.091 nor is any action or inaction taken by the POTW Director/ Superintendent under this section subject to an administrative appeal under § 51.041(H).

(D) *Administrative orders.* When the POTW Director finds that an industrial user has violated or continues to violate this chapter, permits or orders issued hereunder, or any other pretreatment requirement the POTW Director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

(1) Immediately comply with all requirements;

(2) Comply in accordance with a compliance time schedule set forth in the order;

(3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;

(4) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

(E) *Emergency suspensions.*

(1) The POTW Director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or non-discharge permit.

(2) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the POTW Director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The POTW Director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW Director prior to the date of the above-described hearing.

(F) *Termination of permit or permission to discharge.*

(1) The POTW Director may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:

(a) Failure to accurately report the wastewater constituents and characteristics of his discharge;

(b) Failure to report significant changes in operations, or wastewater constituents and characteristics;

(c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

(d) Violation of conditions of the permit or permission to discharge, conditions of this chapter, or any applicable state and federal regulations.

(2) Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under § 51.090 of this chapter why the proposed action should not be taken.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.091 CIVIL PENALTIES.

(A) Any user who is found to have failed to comply with any provision of this chapter, or the orders, rules, regulations and permits issued hereunder, may be fined up to $25,000 per day per violation. Penalties between $10,000 and $25,000 per day per violation may be assessed against a violator only if:

(1) For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation; or

(2) In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this chapter, or the orders, rules, regulations and permits issued hereunder, only if the POTW Director determines that the violation was intentional and a civil penalty has been imposed against the violator with the five years preceding the violation.

(B) In determining the amount of the civil penalty, the POTW Director shall consider the following:

(1) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;

(2) The duration and gravity of the violation;

(3) The effect on ground or surface water quantity or quality or on air quality;

(4) The cost of rectifying the damage;

(5) The amount of money saved by noncompliance;

(6) Whether the violation was committed willfully or intentionally;

(7) The prior record of the violator in complying or failing to comply with the pretreatment program;

(8) The costs of enforcement to the town.

(C) Appeals of civil penalties assessed in accordance with this section shall be as provided in § 51.0041(H).
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.092 OTHER AVAILABLE REMEDIES.

Remedies, in addition to those previously mentioned in this chapter, are available to the POTW Director who may use any single one or

combination against a noncompliant user. Additional available remedies include, but are not limited to:

(A) *Criminal violations.* The District Attorney for Judicial District 30 may, at the request of the town, prosecute noncompliant users who violate the provisions of G.S. § 143-215.6B.

Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. § 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. § 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. § 143-215.6B(h)), and to falsify information required under G.S. § 143-215.6B(i).

(B) *Injunctive relief.* Whenever a user is in violation of the provisions of this chapter or an order or permit issued hereunder, the POTW Director, through the City Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

(C) *Water supply severance.* Whenever an industrial user is in violation of the provisions of this chapter or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply .

(D) *Public nuisances.* Any violation of the prohibitions or effluent limitations of this chapter or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW Director. Any person(s) creating a public nuisance shall be subject to the provisions of the appropriate ordinances of the town governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.093 REMEDIES NONEXCLUSIVE.

The remedies provided for in this chapter are not exclusive. The POTW Director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with enforcement response plan of the town. However, the POTW Director may take other action against any user when the circumstances warrant. Further, the POTW Director is empowered to take more than one enforcement action against any noncompliant user.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

NONCOMPLIANCE

§ 51.100 ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE.

At least annually, the POTW Director shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance, in 15A NCAC 2H .0903(b)(10), with applicable pretreatment standards and requirements, during the previous 12 months.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

§ 51.110 UPSET.

(A) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of division (B), below, are met.

(B) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the user can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(3) The user has submitted the following information to the POTW Director within 24 hours of becoming aware of the upset (if this information is

provided orally, a written submission must be provided within five days):

(a) A description of the indirect discharge and cause of noncompliance;

(b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(C) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(D) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(E) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.111 PROHIBITED DISCHARGE STANDARDS DEFENSE.

(A) A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 51.010(A) of this chapter or the specific prohibitions in § 51.010(B)(2), (B)(3), (B)(5) - (B)(7), and (B)(9) - (B)(23) of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(B) Pursuant to 40 CFR Section 403.5(a)(2), the affirmative defense outlined in this section cannot apply to the specific prohibitions in § 51.010(B)(1) and (B)(4), and (B)(8).
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

§ 51.112 BYPASS.

(A) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of divisions (B) and (C) of this section.

(B) (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW Director/Superintendent, at least ten days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the POTW Director/ Superintendent of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(C) (1) Bypass is prohibited, and the POTW Director/Superintendent may take an enforcement action against a user for a bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The user submitted notices as required under division (B) of this section.

(2) The POTW Director may approve an anticipated bypass, after considering its adverse effects, if the POTW Director determines that it will meet the three conditions listed in division (C)(1) of this section.

Note: The affirmative defense for bypass from the federal regulations has not been incorporated into state pretreatment regulations either verbatim or by reference. It will be incorporated when the state pretreatment regulations are modified in 1993 to incorporate changes to the federal regulations that have occurred since 1987 when the state regulations were last modified. The state regulations governing NPDES permits do, however, incorporate the bypass provision. DWQ is of the opinion that local governments may incorporate the bypass provision into their ordinances since such authority is provided by the federal regulations and since state regulations do not specifically prohibit the bypass provision, even though state pretreatment regulations do not as yet specify the bypass provision. Incorporation of this provision within the ordinance prior to change in the state pretreatment regulations will prevent the necessity of changing the ordinance at a later date when the state pretreatment regulations are modified.
(Ord. passed 12-4-06; Am. Ord. passed 5-4-09)

CHAPTER 52: WATER

Section

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§ 52.01 CLASSIFICATION OF SERVICE.

All services are classified under two categories to include residential, schools, churches and commercial users.
(Ord. passed 2-2-81)

§ 52.02 RATE SCHEDULE AND TAP-ON FEES.

(A) Rate Schedule:

Minimum Charges per Month
Inside Town Residential

¾-inch meter	$5.67 w/1,000 gallons
1-inch meter	25.84 w/6,000 gallons
1½-inch meter	46.07 w/12,000 gallons
2-inch meter	76.40 w/18,000 gallons
4-inch meter	123.60 w/24,000 gallons
6-inch meter	170.79 w/30,000 gallons

Sewer rate (per 100 gallons) - $2.90/rate $.09

Minimum Charges per Month (Cont'd)
Inside Town Commercial

¾-inch meter	$7.87 w/1,000 gallons
1-inch meter	35.96 w/6,000 gallons
1½-inch meter	57.30 w/12,000 gallons
2-inch meter	89.89 w/18,000 gallons
4-inch meter	146.07 w/24,000 gallons
6-inch meter	201.12 w/30,000 gallons

Sewer rate (per 100 gallons) - $2.90/rate $.09

Rates Inside Town Limits
Residential

First 1,000 gallons	$3.00 minimum
1,000 to 6,000	1.12/1,000
Over 6,000 gallons	0.95/1,000

Commercial

First 1,000 gallons	$3.50 minimum
1,000 to 21,000	1.46/1,000
21,000 to 200,000	1.24/1,000
Over 200,000 gallons	1.07/1,000

Minimum Charges per Month
Outside Town Residential

¾-inch meter	$11.34 w/1,000 gallons
1-inch meter	51.69 w/6,000 gallons
1½-inch meter	92.14 w/12,000 gallons
2-inch meter	152.81 w/18,000 gallons
4-inch meter	247.19 w/24,000 gallons
6-inch meter	341.57 w/30,000 gallons

Sewer rate (per 100 gallons) - $2.90/rate $.09

Outside Town Commercial

¾-inch meter	$15.73 w/1,000 gallons
1-inch meter	71.91 w/6,000 gallons
1½-inch meter	114.61 w/12,000 gallons
2-inch meter	179.78 w/18,000 gallons
4-inch meter	292.14 w/24,000 gallons
6-inch meter	402.25 w/30,000 gallons

Sewer rate (per 100 gallons) - $2.90/rate $.09

Rates Outside Town Limits
Residential

First 1,000 gallons	$4.00 minimum
1,000 to 6,000	2.25/1,000
Over 6,000 gallons	1.91/1,000

Commercial

First 1,000 gallons	$5.00 minimum
1,000 to 100,000	2.47/1,000
100,000 to 120,000	2.08/1,000
120,000 to 140,000	1.86/1,000
140,000 to 160,000	1.80/1,000
160,000 to 180,000	1.46/1,000
Over 180,000 gallons	1.35/1,000

Multi-residential users, including trailer courts and duplex apartments, served through one meter will be billed at the town's regular published commercial rates.

(B) Tap-on Fees - Water Tap Schedule

Meter Size	***Inside Town Limits***	***Outside Town Limits***
¾-inch	$480	$960
1- inch	590	1180
1½-inch	910	1820
2-inch	1310	2620
4-inch	1500	3000
6-inch	1800	3600
4-inch-on-4-inch	1800	3600
6-inch-on-6-inch	2000	4000

	In	***Out***
crossing road water	$175	$350
cutting road water	325	650

(1) Plus cost of wheel handle valve on customer's side of meter as required under § 52.07 (D) of this subchapter. If customer desires to furnish valve same will be delivered to Town Office prior to making tap. If town is to furnish valve, customer will pay for same when tap fee is paid.

(2) Plus $40 if connection must be put under existing black top pavement.

(3) Plus additional piping to property line from main on outside taps

(4) All tap fees will be paid prior to making the tap.
(Ord. passed 2-2-81; Am. Ord. passed 2-28-94; Am. Ord. passed 9-5-95)

§ 52.03 APPLICATION FOR SERVICES.

(A) Service will be supplied to applicants in areas that can be served by existing and proposed reservoirs and water mains.

(B) Persons will make application for service, in person, at the office of the town and at the same time make the deposit guarantee required.

(C) The town may reject any application for service not available under a standard rate or which involves excessive service cost, or which may affect the supply of service to other customers or for other good and sufficient reasons.

(D) The town may reject any application for service when the applicant is delinquent in payment of bills incurred for service previously supplied at any location provided that when the owner of the premises has been served water and has not paid for the same, the town shall not be required to render service to anyone at the location where the water was used until the water bill has been paid.

(E) Prior to approval of application and acceptance of payment for service the following determination will be made by the town:

(1) Location of main or mains of adequate size to serve the applicant.

(2) Determine if the water pressure will be adequate to serve the property without booster pumps and advise applicant if a booster is required.

(3) The above divisions (A), (B) and (C) will be investigated and a determination will be made prior to the issuance of a certificate of compliance or building permit.

(F) In the event a booster pump is required to serve the applicant, the pump will be installed and maintained at users expense.
(Ord. passed 2-2-81) Penalty, see § 10.99

§ 52.04 DEPOSIT.

(A) All users, not property owners, will make a minimum cash deposit of $15. In no case shall a deposit be required in excess of three months estimated consumption. Deposits shall not draw interest.

(B) The individual in whose name the deposit is made shall be responsible for payment of all bills incurred in connection with the service furnished.

(C) A separate deposit is required for each meter installed.

(D) The deposit receipt is not negotiable and can be redeemed only at the office of the town.

(E) Where the town finds that the request for a deposit refund is questionable, the town may require the applicant, for refund, to produce the deposit receipt properly endorsed.
(Ord. passed 2-2-81)

§ 52.05 INITIAL OR MINIMUM CHARGE.

(A) The initial or minimum charge, as provided in the rate schedule, shall be made for each meter installed, regardless of location. Each meter requires a separate meter reading sheet and each meter reading sheet shall cover a separate and individual account.

(B) Where service is furnished to a consumer during certain months only, the minimum charge per service for the period of non-use shall be the regular minimum as set out in the published rates of the town.

(C) Water furnished for a given lot shall be used on that lot only. Each consumer's service must be separately metered at a single delivery and metering point. Each commercial unit and each storeroom or stall used for business purposes shall have a separate meter, unless full approval is granted by the Board of Aldermen. All commercial use, including storerooms and stalls for business purposes, shall be metered separately from any residential use and vice versa, whether now in service or to be installed in the future.
(Ord. passed 2-2-81)

§ 52.06 CORPORATION'S RESPONSIBILITY AND LIABILITY.

(A) The town shall run a service line from its distribution line to the property line where the distribution line runs immediately adjacent and parallel to the property to be served and for which a tap-on fee then in effect for each size of meter will be charged.

(B) The town may install its meter at the property line or, at the town's option on the consumer's property or in a location mutually agreed upon.

(C) When two or more meters are to be installed on the same premises for different consumers, they shall be closely grouped and each clearly designated to which consumer it applies.

(D) The town does not assume the responsibility of inspecting the consumer's piping or apparatus and will not be responsible therefor.

(E) The town reserves the right to refuse service unless the consumer's lines or piping are installed in a manner as to prevent cross-connections or backflow.

(F) The town shall not be liable for damage of any kind whatsoever resulting from water or the use of water on the consumer's premise, unless the damage results directly from negligence on the part of the town. The town shall not be responsible for any damage done by or resulting from any defect in the piping, fixtures or appliances on the consumer's premises. The town shall not be responsible for negligence of third persons or forces beyond the control of the town resulting in any interruption of service.

(G) Under normal conditions, the consumer will be notified of any anticipated interruption of service.
(Ord. passed 2-2-81)

§ 52.07 CONSUMER'S RESPONSIBILITY.

(A) Piping on the user's premises must be so arranged that the connections are conveniently located with respect to the town's lines or mains.

(B) If the consumer's piping on consumer's premises is so arranged that the town is called upon to provide additional meters, each place of metering will be considered as a separate and individual account.

(C) Where meter is placed on premises of a consumer, a suitable place shall be provided by consumer for placing the meter - unobstructed and accessible at all times to the meter reader.

(D) The consumer shall furnish and maintain an approved private cutoff valve on the consumer's side of the meter, the town to provide a valve on the town's side of the meter.

(E) The consumer's piping and apparatus shall be installed and maintained by the consumer at the consumer's expense in a safe and efficient manner and in accordance with the town's rules and regulations and in full compliance with the sanitary regulations of the State Board of Health.

(F) The consumer shall guarantee proper protection to the town's property placed on the consumer's premises and shall permit access to it only by authorized representatives of the town.

(G) In the event that any loss or damage to the property of the town or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the consumer, his agents or employees, the cost of the necessary repairs or replacements shall be paid by the consumers to the town; and any liability otherwise resulting shall be assumed by the consumer.

(H) The amount of the loss or damage or the cost of repairs shall be added to the consumer's bill; and if not paid, service may be discontinued by the town.
(Ord. passed 2-2-81) Penalty, see § 10.99

§ 52.08 EXTENSIONS TO MAINS AND SERVICE; PIPE SPECIFICATIONS.

(A) Water distribution lines to serve an undeveloped subdivision will be handled as follows:

(1) The developer will submit plans for review and approval by the town, its engineer, and the State Board of Health as required.

(2) The developer will install the lines in accordance with approved plans.

(3) Upon completion of the new extension and after one year of trouble-free operation, the developer has the option to deed the complete facility (including all rights-of-way, easements, permits, franchises and authorizations, or other instruments needed for the operation and maintenance of the facility) to the town. The town will not reimburse the developer for the extension.

(B) Other Extensions. The extension of water lines will be handled as follows:

(1) The plans for the extension will be submitted for review and approval by the town, its engineer, and the State Board of Health as required.

(2) The lines will be installed in accordance with the approved plans.

(3) Prior to or upon completion of the new extension, all rights-of-way, easements, permits, franchises and authorizations, or other instruments needed for the installation, operation and maintenance of the facility will be deeded to the town. The cost involved in the new extension will be paid by the person or persons requesting the extension.

(4) Any users connecting to the town water system will use the following pipe: 200 PSI PVC; Schedule 40 copper; galvanized or cement-lined, ductile iron pipe. After getting permission from the town, the pipe will be connected according to Manufacturers or Plumbing Code Specifications and any additional specifications set forth by the town.
(Ord. passed 10-27-83; Am. Ord. passed 9-5-95)

(5) Acceptance and approval of extensions outside the town limits shall be solely within the discretion of the Board of Aldermen.
(Ord. passed 2-2-81; Am. Ord. passed 9-5-95)

(C) For any user to connect into the town sewer system the following pipe will be used by the customer. SDR 35, PVC size 4 inches or above, Schedule 40 PVC size 4 inches or above, ductile or cast iron size 4 inches or above. Pipe will be fitted together according to Manufacturers or Plumbing Code Specifications. The ditch will be left open for inspection by a representative of the town before the pipe is covered and ditch filled.

(D) The inspection will include a complete check for roof drains, storm drains or any other possible source of water into the system other than sanitary sewage.

(E) Any user connecting to the town water system will use the following pipe. 200 PSI PVC, Schedule 40 type K or L, copper or galvanized pipe. The pipe will be connected according to Manufacturers or Plumbing Code Specifications. The ditch will be left open for inspection by a representative of the town. (Ord. passed 10-27-83)

§ 52.09 ACCESS TO PREMISES.

(A) Duly authorized agents of the town shall have access at all reasonable hours to the premises of the consumer for the purpose of installing or removing the town's property, inspecting piping, reading or testing meters or for any other purpose in connection with the town's service and facilities.

(B) Each consumer shall grant or convey or shall cause to be granted or conveyed to the town a perpetual easement and right of way across any property owned or controlled by the consumer wherever the perpetual easement and right of way is necessary for the town water facilities and lines so as to be able to furnish service to the consumer.
(Ord. passed 2-2-81)

§ 52.10 CHANGE OF OCCUPANCY.

(A) Not less than three days notice must be given in person or writing, at the town Office, to discontinue service for a change in occupancy.

(B) The outgoing party shall be responsible for all water consumed up to the time of departure or the time specified for departure, whichever period is longest.
(Ord. passed 2-2-81)

§ 52.11 METER READING, BILLING AND COLLECTION.

(A) Meters will be read and bills rendered monthly, but the town reserves the right to vary the dates or length of period covered, temporarily or permanently if necessary or desirable.

(B) Bills for water will be figured in accordance with the town's published rate schedule then in effect, and will be based on the amount consumed for the period covered by the meter readings.

(C) Charge for service commences when meter is installed and connection made, whether used or not. Sixty days may be allowed for hook-up on initial installation of the water system.

(D) Readings from different meters will not be combined for billing, irrespective of the fact that the meters may be for the same or different premises, or for the same or different consumers, or for the same or different services.

(E) Bills are due when rendered and become delinquent ten days thereafter, whereupon a penalty of 1½% will be added; and if not paid in 15 days, service may be discontinued by the town, subject to § 52.13(A).

(F) Failure to receive bills or notices shall not prevent the bills from becoming delinquent or relieve the consumer from payment.
(Ord. passed 2-2-81; Am. Ord. passed 9-5-95) Penalty, see § 10.99

§ 52.12 SUSPENSION OF SERVICE.

(A) When services are discontinued and all bills paid, the deposit will be refunded.

(B) Upon discontinuance of service for nonpayment of bill, the deposit will be applied by the town toward settlement of the account. Any balance will be refunded to the consumer; but if the deposit is not sufficient to cover the bill, the town may proceed to collect the balance in the usual way provided by law for the collection of debts.

(C) Service discontinued for nonpayment of bills will be restored only after: bills are paid in full; redeposit is made; and a service charge is paid for meter reconnection as follows:

	Inside	*Outside*
¾-inch meter	$50	$75
1-inch, 1½-inch and 4-inch meters	75	100

(D) The town reserves the right to discontinue its services without notice for the following additional reasons:

(1) To prevent fraud or abuse.

(2) Consumers willful disregard of the town's rules.

(3) Emergency repairs.

(4) Insufficiency of supply due to circumstances beyond the town's control.

(5) Legal processes.

(6) Direction of public authorities.

(7) Strike, riot, fire, flood, accident or any unavoidable cause.

(E) In addition to prosecution by law, the town may permanently refuse service to any consumer who tampers with a meter or other measuring device.
(Ord. passed 2-2-81; Am. Ord. passed 9-5-95) Penalty, see § 10.99

§ 52.13 COMPLAINTS; ADJUSTMENTS.

(A) If the consumer believes his bill to be in error, he shall present his or her claim, in person, at the town Office before the bill becomes delinquent. If the claim continues to be in dispute, the consumer may request a hearing before the Board of Aldermen. The consumer may pay the bill under protest and the payment shall not prejudice his or her claim.

(B) The town will make special meter readings at the request of the consumer (for fees of $5 inside and $10 outside town limits) provided, however, that if the special reading disclosed that the meter was overread, no charge will be made.

(C) Meters will be tested at the request of the consumer upon payment to the town (for a ¾-inch meter: $15 inside town limits and $25 outside town limits; for meters over ¾-inch: $50 both inside and outside town limits) provided, however, that if the meter is found to over register beyond 95% of the correct volume, no charge will be made.

(D) If the seal of a meter is broken by other than the town's representative or if the meter fails to register correctly or is stopped for any reason, the consumer shall pay an amount estimated from the record of his previous bills and from other data.
(Ord. passed 2-2-81; Am. Ord. passed 9-5-95) Penalty, see § 10.99

§ 52.14 ABRIDGEMENT OR MODIFICATION OF RULES.

(A) No promise, agreement or representation of any employee of the town shall be binding upon the town except as it shall have been agreed upon in writing, signed and accepted by the acknowledged officers of the town.

(B) No modification of rates or any of the rules and regulations shall be made by any agent of the town.
(Ord. passed 2-2-81)

§ 52.15 LOCATING AND RE-LOCATION OF EXISTING WATER LINES.

(A) As near as possible all water lines will be laid along a public road or an adequate right of way or easement will be obtained for proper maintenance of the water lines.

(B) In the event it becomes necessary to move and re-locate water line for the convenience and necessity of the user from where the existing water line is installed, and the town holds a valid easement for such easement or right-of-way, the user or owner will pay the cost of re-locating the water line provided however that a new right of way or easement can be obtained.
(Ord. passed 2-2-81)

§ 52.16 FIRE SPRINKLER SYSTEMS.

(A) Owner's and users of sprinkler systems connected to the town's water system are responsible for the maintenance of the system. The maintenance shall include but is not limited to:

(1) A good workable cut-off valve where the sprinkler main enters the property of the user.

(2) A good workable cut-off valve on the blow-off test and drain line of the system.

(3) Prompt repair of water leaks within the users system.

(B) The town reserves the right to perform periodic inspections of all sprinkler systems.

(C) In case of leaks within the system, it is the user's responsibility to close down the system. If the town's maintenance crew is required to close and open valves for the maintenance of the system, the town will be reimbursed for the time spent at the town's cost to do so. The town also reserves the right to discontinue service to a system where leaks are observed or the customers control valves are not properly working.

(D) It is the owner's responsibility for any damage caused by a malfunction of any sprinkler system.

(E) Each owner of a sprinkler system is encouraged to familiarize his or her employees with location and operation of control valves.
(Ord. passed 2-2-81)

§ 52.17 ORDERLY ALLOCATION OF FACILITIES.

(A) All persons, firms or corporations who shall obtain volume allocations and/or authorizations or permits to connect to the town's sewer and/or water mains or lines shall commence the construction or installation of the lines to be connected to the town's sewer and/or water mains within 12 months from the date of such volume allocations, authorizations or permits; and shall complete such construction or installation and make connection with the town's sewer and/or water mains within 30 months from that date.

(B) All persons, firms or corporations that have heretofore received volume allocations and/or authorizations or permits to connect to the town's sewer and/or water mains or lines shall commence the construction or installation of the lines to be connected to the town's sewer and/or water mains within 12 months of the date of the enactment of this section; and shall complete such construction or installation and make connection with the town's sewer and/or water mains within 30 months from this date.

(C) Volume allocations, authorizations and permits to connect to the town's sewer and/or water mains or lines shall automatically expire and be terminated for failure to comply with divisions (A) and/or (B) above.
(Ord. passed 9-2-97)

TITLE VII: TRAFFIC CODE

Chapter

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CHAPTER 70: GENERAL PROVISIONS

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GENERAL PROVISIONS

§ 70.01 DEFINITIONS.

For the purpose of this chapter, 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, and the ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the Chief of Police.

BICYCLE. Every device propelled by human power upon which any person may ride, having two tandem wheels either of which is over 20 inches in diameter.

BUSINESS DISTRICT. The territory contiguous to and including a highway when within 600 feet along the highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

COMMERCIAL MOTOR VEHICLE. Any of the following motor vehicles that are designed or used to transport passengers or property:

(1) A Class A motor vehicle that has a combined GVWR of at least 26,001 pounds and includes as part of the combination a towed unit that has a GVWR of at least 10,001 pounds.

(2) A Class B motor vehicle.

(3) A Class C motor vehicle that meets either of the following descriptions:

(a) Is designed to transport 16 or more passengers, including the driver.

(b) Is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(4) Any other motor vehicle included by federal regulation in the definition of commercial motor vehicle pursuant to 49 U.S.C. Appendix. § 2716.

CONTROLLED-ACCESS HIGHWAY. Every highway, street, or roadway in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except at points only and in the manner as may be determined by the public authority having jurisdiction over the highway, street, or roadway.

CROSSWALK. That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of curbs from the edges of the traversable roadway. Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markers on the surface.

CURB LOADING ZONE. A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

DRIVER. The operator of a vehicle, as defined in this section. The terms ***DRIVER*** and ***OPERATOR*** and their cognates are synonymous.

FREIGHT CURB LOADING ZONE. A space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight or passengers.

INTERSECTION.

(1) The area embraced within the prolongation of the lateral curb lines, or, if none, then the lateral edge of roadway lines of two or more highways which join one another at any angle whether or not one such highway crosses the other.

(2) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event that such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways shall be regarded as a separate intersection.

LANED ROADWAY. A roadway which is divided into two or more clearly marked lanes for vehicular traffic.

MOTORCYCLE. Vehicles having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including motor scooters and motor-driven bicycles, but excluding tractors and utility vehicles equipped with an additional form of device designed to transport property, three-wheeled vehicles while being used by law-enforcement agencies and mopeds as defined in G.S. § 105-164.3.

MOTOR VEHICLE. Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in G.S. § 20-4.01(27)d1.

OFFICIAL TIME STANDARD. Whenever certain hours are named herein they shall mean standard time or daylight saving time as may be in current use in this town.

OFFICIAL TRAFFIC-CONTROL DEVICES. All signs, signals, markings, and devices not inconsistent with this part placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

OPERATOR. A person in actual physical control of a vehicle which is in motion or which has the engine running. The terms ***OPERATOR*** and ***DRIVER*** and their cognates are synonymous.

PARK. When prohibited means the standing of a vehicle whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

PASSENGER CURB LOADING ZONE. A place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

PEDESTRIAN. Any person afoot.

PERSON. Every individual, firm, partnership, association, corporation, governmental agency, or combination thereof of whatsoever form or character.

POLICE OFFICER. Every officer of the municipal police department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

PRIVATE ROAD OR DRIVEWAY. Every road or driveway not open to the use of the public as a matter of right for the purpose of vehicular traffic.

RESIDENCE DISTRICT. The territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of 300 feet or more is in the main improved with residence or residences and buildings in use for business.

RIGHT OF WAY. The privilege of the immediate use of the roadway.

ROADWAY. That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. In the event a highway includes two or more separate roadways the term "roadway" as used herein shall refer to any roadway separately but not to all such roadways collectively.

SAFETY ZONE. The area or space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

SIDEWALK. That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

STOP. When required means complete cessation of movement.

STOP, STOPPING, or ***STANDING.*** When prohibited means any stopping or standing of a vehicle whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

STREET or ***HIGHWAY.*** The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

THROUGH HIGHWAY. Every street or highway or portion thereof at the entrances to which vehicular traffic from intersecting streets or highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this part.

TRAFFIC. Pedestrians, ridden animals, vehicles, and other conveyances either singly or together while using any street for purposes of travel.

TRAFFIC-CONTROL SIGNAL. Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided, that for the purposes of this Traffic Code bicycles shall be deemed vehicles and every rider of a bicycle upon a highway shall be subject to the provisions of this Traffic Code applicable to the driver of a vehicle except those which by their nature can have no application. This term shall not include a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, is suitable for use both inside and outside a building, and whose maximum speed does not exceed 12 miles per hour when the device is being operated by a person with a mobility impairment.
('76 Code, § 7-1001)

Statutory references:

Authority to enact traffic regulations, see G.S. § 160A-296 et seq.

§ 70.02 AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS.

(A) It shall be the duty of the officers of the Police Department or the officers as are assigned by the Chief of Police to enforce all street traffic laws and all of the State vehicle laws applicable to street traffic.

(B) Officers of the Police Department or the officers as are assigned by the Chief of Police are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the Police Department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(C) Officers of the Fire Department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.
('76 Code, § 7-1021)

§ 70.03 OBEDIENCE TO POLICE AND FIRE DEPARTMENT OFFICIALS.

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.
('76 Code, § 7-1022) Penalty, see § 70.99

§ 70.04 PERSONS PROPELLING PUSH CARTS OR RIDING ANIMALS TO OBEY TRAFFIC REGULATIONS.

Every person propelling any push cart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this part applicable to the driver of any vehicle, except those provisions of this part which by their very nature can have no application.
('76 Code, § 7-1023) Penalty, see § 70.99

§ 70.05 USE OF COASTERS, ROLLER SKATES AND SIMILAR DEVICES RESTRICTED.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing the person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street as authorized by ordinance.
('76 Code, § 7-1024) (Am. Ord, passed 10-3-88) Penalty, see § 70.99

§ 70.06 PUBLIC EMPLOYEES TO OBEY TRAFFIC REGULATIONS.

The provisions of this part 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 driver to violate any of the provisions of this part, except as otherwise permitted in this part or by state statute.
('76 Code, § 7-1025) Penalty, see § 70.99

§ 70.07 DUTY OF POLICE DEPARTMENT.

It shall be the duty of the police department to enforce the street traffic regulations and all of the state vehicle laws applicable to street traffic, to make arrests for traffic violations, to investigate accidents and to cooperate with the town officials in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon the department by this chapter.
('76 Code, § 7-1011)

§ 70.08 POLICE DEPARTMENT TO INVESTIGATE ACCIDENTS.

It shall be the duty of the Police Department to investigate traffic accidents, to arrest and to assist in the prosecution of those persons charged with violations of law causing or contributing to the accidents.
('76 Code, § 7-1012)

§ 70.09 TRAFFIC ACCIDENT STUDIES.

Whenever the accidents at any particular location become numerous, the Police Department shall conduct studies of the accidents and determine remedial measures.
('76 Code, § 7-1013)

§ 70.10 EMERGENCY AND EXPERIMENTAL REGULATIONS.

The Chief of Police is hereby empowered to make regulations necessary to make effective the provisions of the traffic ordinances and to make and enforce temporary or experimental regulations to cover emergencies or special conditions for periods not to exceed 30 days; provided he shall report the results of experimental regulations to the Board of Aldermen.
('76 Code, § 7-1014)

TRAFFIC-CONTROL DEVICES

§ 70.20 AUTHORITY TO INSTALL TRAFFIC-CONTROL DEVICES.

The town shall place and maintain traffic-control signs, signals, and devices when and as required under the traffic ordinances to make effective the provisions of the ordinances, and may place and maintain the additional traffic-control devices to regulate traffic under the traffic ordinances of this town or under State law.
('76 Code, § 7-1031)

§ 70.21 SPECIFICATIONS FOR TRAFFIC-CONTROL DEVICES.

All traffic-control signs, signals and devices shall conform to State regulations. All signs and signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location. All traffic-control devices so erected and not inconsistent with the provisions of State law or this part shall be official traffic-control devices.
('76 Code, § 7-1032)

§ 70.22 OBEDIENCE TO OFFICIAL TRAFFIC-CONTROL DEVICES.

The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the traffic ordinances, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this part or by applicable State or local laws.
('76 Code, § 7-1033) Penalty, see § 70.99

§ 70.23 WHEN TRAFFIC DEVICES REQUIRED FOR ENFORCEMENT PURPOSES.

No provision of this part for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, the section shall be effective even though no signs are erected or in place.
('76 Code, § 7-1034)

§ 70.24 DISPLAY OF UNAUTHORIZED SIGNS; SIGNALS OR MARKINGS.

(A) No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is in imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

(B) No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.

(C) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(D) Every prohibited sign, signal, or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice.
('76 Code, § 7-1038) Penalty, see § 70.99

§ 70.25 INTERFERENCE WITH OFFICIAL TRAFFIC-CONTROL DEVICES.

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device or any inscription, shield, or insignia thereon, or any other part thereof.
('76 Code, § 7-1039) Penalty, see § 70.99

§ 70.26 AUTHORITY TO ESTABLISH PLAY STREETS.

(A) The Board shall have authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.

(B) Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any street or portion thereof except drivers of vehicles having business or whose residences are within the closed area, and then

any driver shall exercise the greatest care in driving upon any street or portion thereof.
('76 Code, § 7-1040) Penalty, see § 70.99

§ 70.27 TRAFFIC LANES.

Where traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep the vehicle within the boundaries of any lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.
('76 Code, § 7-1041) Penalty, see § 70.99

§ 70.99 PENALTY.

(A) (1) In addition to any other remedies cited in this Traffic Code for the enforcement of the provisions of this Traffic Code, the regulations and standards contained in this Traffic Code may be enforced through the issuance of citations by the designated town official. These citations shall be in the form of a civil penalty. The town may recover this penalty in a civil action in the nature of a debt if the offender does not pay the penalty within 72 hours after being cited for a violation. In addition, failure to pay the civil penalty within 72 hours may subject the violator to criminal charges of not more than $50 or imprisonment for not more than 30 days, as set forth in G.S. § 14-4(a). The following civil penalties are established for violations under this section:

(a) Warning citation: correct violation within ten days.

(b) First citation, $25.

(c) Second citation for same offense, $100.

(d) Third and subsequent citation for same offense, $200.

(2) These civil penalties are in addition to any other penalties which may be imposed by a court for violation of the provisions of this Traffic Code.

(B) In addition to the foregoing enforcement provisions, this chapter may be enforced by any remedy provided in G.S. § 160A-175 including, but not limited to, all appropriate equitable remedies issued from a court of complete jurisdiction as provided in G.S. § 160A-175(e). This section specifically provides that each day's continuing violation shall be a separate and distinct offense.

CHAPTER 71: TRAFFIC RULES

Section

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GENERAL PROVISIONS

§ 71.01 DRIVING THROUGH FUNERAL OR OTHER PROCESSION.

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when the vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.
('76 Code, § 7-1091) Penalty, see § 70.99

§ 71.02 DRIVERS IN A PROCESSION.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe.
('76 Code, § 7-1092)

§ 71.03 VEHICLES SHALL NOT BE DRIVEN ON A SIDEWALK.

The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.
('76 Code, § 7-1093) Penalty, see § 70.99

§ 71.04 LIMITATIONS ON BACKING.

The driver of a vehicle shall not back the same unless the movement can be made with reasonable safety and without interfering with other traffic.
('76 Code, § 7-1094) Penalty, see § 70.99

§ 71.05 CLINGING TO VEHICLES.

No person, riding upon any bicycle, coaster, roller skates, sled, or toy vehicle shall attach the same or himself to any vehicle upon a roadway.
('76 Code, § 7-1095) (Ord. passed 7-12-12) Penalty, see § 70.99

§ 71.06 CONTROLLED ACCESS.

No person shall drive a vehicle onto or from any controlled-access roadway except at the entrances and exits as are established by public authority.
('76 Code, § 7-1096) Penalty, see § 70.99

§ 71.07 MUFFLER REQUIRED.

No person shall operate or run the engine of a motor vehicle without using a complete muffler to suppress and reduce the sound of the vehicle.
('76 Code, § 7-1097) (Ord. passed 8-12-15) Penalty, see § 70.99

§ 71.08 SPEED LIMITS.

(A) Except as otherwise provided in this chapter, it shall be unlawful to operate a vehicle in excess of 35 miles per hour inside the municipal corporate limits.
('76 Code, § 7-1051)
Statutory reference:
Statewide speed limits unless local ordinance provides otherwise, see G.S. § 20-141

(B) It shall be unlawful to operate a vehicle in excess of the speeds listed below upon the streets or portions of streets of the State Highway System listed in each designated section in Chapter 74, Schedule II, hereby made a part hereof:

(1) Twenty miles per hour in Chapter 74 Schedule II(A).

(2) Twenty-five miles per hour in Chapter 74 Schedule II(B).

(3) Forty-five miles per hour in Chapter 74 Schedule II(C).
('76 Code, § 7-1052) Penalty, see § 70.99

§ 71.09 ONE-WAY STREETS AND ALLEYS.

(A) Whenever any ordinance designates any one-way street or alley there shall be signs giving notice thereof, and no regulation shall be effective unless the signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.
('76 Code, § 7-1071)

(B) Upon those streets and parts of streets and in those alleys described in Chapter 74 Schedule I, hereby made a part hereof, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.
('76 Code, § 7-1072)

TURNING MOVEMENTS

§ 71.20 REQUIRED POSITION AND METHOD OF TURNING AT INTERSECTIONS.

The driver of a vehicle intending to turn at an intersection shall do so as follows:

(A) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(B) Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any intersection shall

approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in the direction upon the roadway being entered.
('76 Code, § 7-1061)

§ 71.21 TURNING MARKERS.

When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of the indications.
('76 Code, § 7-1062)

§ 71.22 OBEDIENCE TO NO-TURN SIGNS.

Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of any sign.
('76 Code, § 7-1063) Penalty, see § 70.99

SPECIAL STOPS REQUIRED

§ 71.35 AUTHORITY TO ERECT STOP SIGNS.

Whenever any ordinance designates and describes a through street, there shall be a stop sign on each and every street intersecting the through street or intersecting that portion described and designated as by any ordinance unless traffic at any intersection is controlled at all times by traffic-control signals; provided, however, that at the intersection of two through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected by the approaches of either of the streets.
('76 Code, § 7-1081)

§ 71.36 SIGNS TO BEAR THE WORD "STOP".

Every sign erected pursuant to this chapter shall bear the word "Stop" in letters not less than 8 inches in height. Every stop sign shall be located as near as practicable at the nearest line of the crosswalk on the near side of the intersection or, if none, at the nearest line of the roadway.
('76 Code, § 7-1082)

§ 71.37 VEHICLES TO STOP AT STOP SIGNS.

Where stop signs are erected as herein authorized at or near the entrance to any intersection, every driver of a vehicle shall stop before entering the crosswalk on the near side of the intersection or in the event there is no crosswalk shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection except when directed to proceed by a police officer or traffic-control signal.
('76 Code, § 7-1083)

§ 71.38 EMERGING FROM ALLEY, DRIVEWAY OR BUILDING.

The driver of a vehicle within a business or residence district emerging from an alley, driveway, or building shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, yielding the right of way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right of way to all vehicles approaching on the roadway. ('76 Code, § 7-1084)

§ 71.39 STOP WHEN TRAFFIC OBSTRUCTED.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed. ('76 Code, § 7-1085)

PEDESTRIANS' RIGHTS AND DUTIES

§ 71.50 PEDESTRIANS SUBJECT TO TRAFFIC-CONTROL SIGNALS.

Pedestrians shall be subject to traffic-control signals as heretofore declared in §§ 70.24 and 70.26 of

this title, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this chapter.
('76 Code, § 7-1101)

§ 71.51 PEDESTRIANS' RIGHT OF WAY IN CROSSWALK.

(A) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle, which is so close that it is impossible for the driver to yield.

(B) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.
('76 Code, § 7-1102)

§ 71.52 PEDESTRIANS TO USE RIGHT HALF OF CROSSWALK.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.
('76 Code, § 7-1103)

§ 71.53 CROSSING AT RIGHT ANGLES.

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a crosswalk.
('76 Code, § 7-1104) Penalty, see § 70.99

§ 71.54 WHEN PEDESTRIAN SHALL YIELD.

(A) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

(B) The foregoing rule in this section has no application under the conditions stated in § 71.55 of this subchapter when pedestrians are prohibited from crossing at certain designated places.
('76 Code, § 7-1105)

§ 71.55 PROHIBITED CROSSING.

(A) Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a crosswalk.

(B) No pedestrian shall cross a roadway other than in a crosswalk in any business district.

(C) It shall be unlawful for any person to cross Main Street at any place west of its intersection with Porter Street except at marked crosswalks. Any person violating this subsection shall be guilty of a misdemeanor and upon conviction shall be fined $1.
('76 Code, § 7-1106) (Ord. passed 7-6-70) Penalty, see § 70.99

§ 71.56 PEDESTRIANS WALKING ALONG ROADWAYS.

(A) Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(B) Where sidewalks are not provided any pedestrian walking along and upon a highway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.
('76 Code, § 7-1107) Penalty, see § 70.99

§ 71.57 PEDESTRIANS SOLICITING RIDES OR BUSINESS.

No person shall stand in a roadway for the purpose of soliciting a ride or business from the occupant of any vehicle.
('76 Code, § 7-1108) Penalty, see § 70.99

§ 71.58 DRIVERS TO EXERCISE DUE CARE.

Notwithstanding the foregoing provisions of this chapter every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any

roadway; shall give warning by sounding the horn when necessary; and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.
('76 Code, § 7-1109)

CHAPTER 72: BICYCLES

Section

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72.03 Obedience to traffic-control devices
72.04 Manner of riding
72.05 Riding on roadways and bicycle paths
72.06 Speed
72.07 Emerging from alley or driveway
72.08 Carrying articles
72.09 Parking
72.10 Riding on sidewalks
72.11 Lamps and other equipment on bicycles

§ 72.01 EFFECT OF REGULATIONS.

(A) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any child or ward to violate any of the provisions of this chapter.

(B) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.
('76 Code, § 7-1111)

§ 72.02 TRAFFIC LAWS APPLY TO PERSONS RIDING BICYCLES.

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 article and except as to those provisions of laws and ordinances which by their nature can have no application.
('76 Code, § 7-1112)

§ 72.03 OBEDIENCE TO TRAFFIC-CONTROL DEVICES.

(A) Any person operating a bicycle shall obey the instruction of official traffic-control signals, signs, and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(B) Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no persons operating a bicycle shall disobey the direction of any sign, except where the person dismounts from the bicycle to make any turn, in which event the person shall then obey the regulations applicable to pedestrians.
('76 Code, § 7-1113) Penalty, see § 70.99

§ 72.04 MANNER OF RIDING.

(A) A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.

(B) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
('76 Code, § 7-1114) Penalty, see § 70.99

§ 72.05 RIDING ON ROADWAYS AND BICYCLE PATHS.

(A) Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(B) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

(C) Whenever a usable path for bicycles has been provided adjacent to a roadway bicycle riders shall use the path and shall not use the roadway.
('76 Code, § 7-1115)

§ 72.06 SPEED.

No persons shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.
('76 Code, § 7-1116) Penalty, see § 70.99

§ 72.07 EMERGING FROM ALLEY OR DRIVEWAY.

The operator of a bicycle emerging from an alley, driveway, or building, shall upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right of way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway shall yield the right of way to all vehicles approaching on the roadway.
('76 Code, § 7-1117)

§ 72.08 CARRYING ARTICLES.

No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handle bars.
('76 Code, § 7-1118) Penalty, see § 70.99

§ 72.09 PARKING.

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in a manner as to afford the least obstruction to pedestrian traffic.
('76 Code, § 7-1119) Penalty, see § 70.99

§ 72.10 RIDING ON SIDEWALKS.

(A) No person shall ride a bicycle upon a sidewalk within a business district.

(B) The Chief of Police is authorized to erect signs on any roadway prohibiting the riding of bicycles thereon by any person and when the signs are in place no person shall disobey the same.

(C) Whenever any person is riding a bicycle upon a sidewalk, the persons shall yield the right of way to any pedestrian and shall give audible signal before overtaking and passing the pedestrian.
('76 Code, § 7-1120) Penalty, see § 70.99

§ 72.11 LAMPS AND OTHER EQUIPMENT ON BICYCLES.

(A) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type which shall be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(B) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that a bicycle shall not be equipped with nor shall persons use upon a bicycle any siren or whistle.

(C) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.
('76 Code, § 7-1121)

CHAPTER 73: STOPPING, STANDING AND PARKING

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METHOD OF PARKING

§ 73.01 STANDING OR PARKING CLOSE TO CURB.

(A) No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within 18 inches of the curb or edge of the roadway except as otherwise provided in this chapter.

(B) It shall be unlawful for any person to park a vehicle within a zone covered by parking spaces indicated by white lines on the pavement, except in the space between two of the lines. No vehicle shall be parked so as to be partly in one space and partly in another. All vehicles must be placed in a position parallel with the markings.
('76 Code, § 7-1131) (Ord. passed 6-12-23) Penalty, see § 70.99

§ 73.02 SIGNS OR MARKINGS INDICATING ANGLE PARKING.

(A) The Board shall determine upon what streets angle parking shall be permitted and shall mark or sign the streets, which are specified in Chapter 75, Schedule III, hereby made a part hereof.

(B) Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street or upon any streetcar tracks.
('76 Code, § 7-1132)

§ 73.03 OBEDIENCE TO ANGLE-PARKING, SIGNS OR MARKINGS.

Upon those streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by the signs or markings. ('76 Code, § 7-1133) Penalty, see § 70.99

§ 73.04 LIGHTS ON PARKED VEHICLES.

(A) Whenever a vehicle is lawfully parked at nighttime upon any street within a business or residence district no lights need be displayed upon the parked vehicle.

(B) Whenever a vehicle is parked upon a street or highway outside of a business or residence district during the hours between one-half hour after sunset and one-half hour before sunrise, the vehicle shall be equipped with one or more lamps which shall exhibit a white light on the roadway side visible from a distance of 500 feet to the front of the vehicle and a red light visible from a distance of 500 feet to the rear.

(C) Any lighted headlamps upon a parked vehicle shall be depressed or dimmed.
('76 Code, § 7-1134)

§ 73.05 TOWN REGULATED PARKING LOTS.

(A) It shall be unlawful for any person, persons, or corporations to park and leave unattended for more than 24 hours any vehicle on any restricted street or on any town regulated parking lot.

(B) Any overtime parking violation under this section shall raise the presumption that the vehicle involved was operated by the person in whose name the vehicle was registered.

(C) Any vehicle left parked on any restricted street or town regulated parking lot, in violation of this section, shall be towed to a designated storage area at the expense of the vehicle owner and held in storage until towing charges and storage fees have been paid.

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

PARKING. It shall mean the stopping of a vehicle upon a restricted street or town regulated parking lot otherwise than in obedience to traffic regulations or traffic signs or signals for a period longer than reasonably necessary to load or unload passengers or freight.

RESTRICTED STREET. It shall mean that part of any public street, avenue, road, boulevard, highway, or other public place established for the use of vehicles within the town and restricting parking to a limited time only.

TOWN REGULATED PARKING LOT. It shall mean any public or private lot used for the parking of vehicles, located within the town upon which the town has the lawful authority to regulate parking.

VEHICLE. It shall mean any device in, upon, or by which any person or property is or may be transported upon a highway.
('76 Code, § 7-1135) (Ord. passed 5-1-72) Penalty, see § 70.99

PARKING METERS

§ 73.15 DEFINITIONS.

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

PARKING. It shall mean the stopping of a vehicle upon a restricted street otherwise than in obedience to traffic regulations or traffic signs or signals for a period longer than reasonably necessary to load or unload passengers or freight.

PARKING METER. It shall mean that mechanism having a visible time indicator, a coin receiving and a coin actuating mechanism all enclosed and mounted on top of a post which shall, under no condition, be higher than 4½ feet overall and at no point shall the post or mechanism thereon be over 8 inches wide. Each parking meter installed shall indicate by proper legend the legal parking time established by the town, and when operating shall at all times indicate the balance of the period of legal parking, and at the expiration of the period, shall indicate illegal or overtime parking.

PARKING METER ZONE. It shall mean any restricted street upon which parking meters are installed and in operation.

RESTRICTED STREET. It shall mean that part of any public street, avenue, road, boulevard, highway, or

other public place established for the use of vehicles within the city and restricting parking to a limited period only.

VEHICLE. It shall mean any device in, upon or by which any person or property is or may be transported upon a highway.
('76 Code, § 7-1136) (Ord. passed 8-4-47)

§ 73.16 ZONES.

Parking meters shall be installed, operated, maintained, policed and supervised on the restricted streets at places and in the manner as the town Manager (or whatever the case may be) shall direct and the parking meter shall be so devised and regulated as to provide for parking periods not in excess of the legal time within restricted streets. ('76 Code, § 7-1137) (Ord. passed 8-4-47)

§ 73.17 INSTALLATION.

In every parking meter zone one parking meter shall be installed within the curb line adjacent to each space conspicuously designated by lines painted on the surface of the curb or street as a parking place for one vehicle. It shall be a violation of the provisions of this chapter to park any vehicle of a lesser overall length than the designated area in a position that the same shall not be completely within the space provided for one vehicle. Suitable signs indicating the parking restrictions and regulations applicable in parking meter zones shall be conspicuously posted.
('76 Code, § 7-1138) (Ord. passed 8-4-47)

§ 73.18 OPERATION.

Parking a vehicle within any parking meter zone for beyond the established legal parking time for the zone is unlawful. Parking a vehicle within a parking zone for a period of not longer than the established time limit shall be permitted only upon the payment of a coin or coins of the United States as designated on the parking meter, which payment shall be made by depositing the coin or the coins in the parking meter adjacent to the space occupied by the vehicle and by setting the time device upon the parking meter in operation. The coin or coins required to be deposited in parking meters as provided herein are hereby levied and assessed as fees for the sole purpose of providing for the cost of proper supervision and regulation of parking vehicles in the parking meter zones, and to cover the cost of purchase, supervision, protection, inspection, installation, operation, maintenance, control, and use of the parking meter described herein. It is further provided that the installation of parking meters shall in no manner obligate the town to pay for the same from any source than that hereinbefore set out.
('76 Code, § 7-1139) (Ord. passed 8-4-47) Penalty, see § 70.99

§ 73.19 PRESUMPTIONS.

(A) The fact that the time device on any parking meter is not in operation shall be presumptive evidence that the person who parked the vehicle then found standing in the parking space adjacent to the meter failed to deposit a coin or coins as required therein; and the indication by the meter of illegal parking shall be presumptive evidence of overtime parking.

(B) Any overtime parking violation under this article shall raise the presumption that the vehicle involved was operated by the person in whose name the vehicle was registered.
('76 Code, § 7-1140) (Ord. passed 8-4-47)

§ 73.20 OFFENSES.

It shall be unlawful and a violation of the provisions of this article:

(A) For any person to deposit in a parking meter a coin or coins for the purpose of increasing or extending the parking meter time of any vehicle beyond the legal parking time limit.

(B) For any person to allow a vehicle operated by him to be parked overtime or beyond the period of legal parking time established for any parking meter zone.

(C) To deposit or cause to be deposited in any parking meter any slug, device or metallic substitute for a coin or coins of the United States.

(D) For any person to deface, injure, tamper with, open, or willfully break, destroy, or impair the usefulness of any parking meter installed under the provision of this subchapter.
('76 Code, § 7-1141) (Ord. passed 8-4-47) Penalty, see § 70.99

LOADING AND UNLOADING

§ 73.30 DELIVERIES ON MAIN STREET.

All trucks delivering merchandise on Main Street shall drive to the back of buildings for loading and unloading.
('76 Code, § 7-1161)

STOPPING, STANDING OR PARKING PROHIBITED OR RESTRICTED IN SPECIFIED PLACES

§ 73.40 LOCATIONS WHERE NO SIGNS REQUIRED.

(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 10 feet of a fire hydrant;

(5) On a crosswalk;

(6) Within 20 feet of a crosswalk at 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 20 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 property signposted);

(10) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(11) On a roadway side of any vehicle stopped or parked at the edge or curb of a street;

(12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(13) At any place where official signs prohibit stopping.

(B) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb the distance as is unlawful.
('76 Code, § 7-1151) Penalty, see § 70.99

§ 73.41 PARKING NOT TO OBSTRUCT TRAFFIC.

No person shall park any vehicle upon a street, other than an alley, in a manner or under conditions as to leave available less than 10 feet of the width of the roadway for free movement of vehicular traffic.
('76 Code, § 7-1152) Penalty, see § 70.99

§ 73.42 PARKING IN ALLEYS.

No person shall park a vehicle within an alley in a manner or under conditions as to leave available less than 10 feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand, or park a vehicle within an alley, in a position as to block the driveway entrance to any abutting property.
('76 Code, § 7-1153) Penalty, see § 70.99

§ 73.43 PARKING ADJACENT TO SCHOOLS.

When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person shall park a vehicle in any designated place.
('76 Code, § 7-1154) Penalty, see § 70.99

§ 73.44 STANDING OR PARKING ON ONE-WAY ROADWAYS.

In the event a highway includes two or more separate roadways and traffic is restricted to one

direction upon any roadway, no person shall stand or park a vehicle upon the left-hand side of the one-way roadway unless signs are erected to permit the standing or parking. ('76 Code, § 7-1155)

§ 73.45 NO STOPPING, STANDING, OR PARKING NEAR HAZARDOUS OR CONGESTED PLACES.

When official signs are erected at hazardous or congested places no person shall stop, stand or park a vehicle in any designated place.
('76 Code, § 7-1156) Penalty, see § 70.99

§ 73.46 OBSTRUCTION OF DRIVEWAY.

(A) It shall be unlawful for any person to willfully or maliciously stop up or obstruct with a vehicle or otherwise, the driveway or entrance leading from a public street in the town to or from any residence or place of business.

(B) Any person violating division (A) above shall be guilty of a misdemeanor and shall be fined $1 for the first offense and $5 for each subsequent offense.
('76 Code, § 7-1157) (Ord. passed 1-5-70) Penalty, see § 70.99

§ 73.47 STOPPING, STANDING OR PARKING RESTRICTED OR PROHIBITED ON CERTAIN STREETS.

(A) The provisions of this chapter prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.
('76 Code, § 7-1171)

(B) Whenever by this or any ordinance any parking time limit is imposed or parking is prohibited on designated streets there shall be appropriate signs giving notice thereof and no regulations shall be effective unless the signs are erected and in place at the time of any alleged offense.
('76 Code, § 7-1174)

CHAPTER 74: TRAFFIC SCHEDULES

Section

I. One-way streets
II. Speed limits
III. Truck traffic prohibited

SCHEDULE I: ONE-WAY STREETS.

(A) Main Street from the intersection of East Main Street and South Palmer Street to the intersection of West Main Street and Harrison Avenue; all vehicular travel upon the street shall proceed westerly.

(B) Palmer Street from its intersection with Porter Street to its intersection with East Main Street; all vehicular travel upon the same shall proceed in an easterly direction.

(C) Bidwell Street from its intersection with Lyle Street to its intersection with Harrison Avenue; all vehicular travel upon the same shall proceed in a northerly direction.

(D) Watauga Street from the area between: the intersection of the easternmost margin of the westernmost driveway of East Franklin School and Watauga Street at the stop sign, and the westernmost margin of the next driveway into the East Franklin School lying to the east; all vehicular travel upon the same shall proceed in a westerly direction.

(E) Macon Avenue from its intersection with Church Street and West Main Street; all vehicular travel upon the same shall proceed in a southerly direction
('76 Code, App. I, § 104) (Ord. passed 10-9-56; Am. Ord. passed 11-1-93; Am. Ord. passed 12-20-95; Am. Ord. passed 1-2-96; Am. Ord. passed 9-9-96; Am. Ord. passed 2-8-99)

SCHEDULE II: SPEED LIMITS.

(A) Twenty miles per hour speed limit on the following streets:

Street	*Location*	*Ord. Date(s)*
Palmer Street (US 441 Business-NC 28)	From Porter Street (US 441 Business northbound -NC 28) east to a point 0.13 mile east of SR 1718/1699 (Phillips Street)	5-6-74
West Main Street (US 441 Business-NC 28)	From Porter Street (US 441 Business-NC 28) to Iotla Street (SR 1323)	5-6-74
East Main Street (US 441 Business-NC 28)	From Iotla Street (SR 1323) to Palmer Street (US 441 Business-NC 28)	5-6-74
Porter Street (US 441 Business-NC 28)	From Palmer Street (US 441 Business-NC 28) to West Main Street (US 441 Business - NC 28)	5-6-74
Palmer Street (SR 1442)	From Maple Street to Porter Street (US 441 Business-NC 28)	5-6-74
Phillips Street (SR 1699)	From Palmer Street (US 441 Business-NC 28) to Main Street (US 441 Business-NC 28)	6-5-72; 5-6-74
Iotla Street (SR 1323)	From Main Street (US 441 Business-NC 28) to Church Street	5-6-74
Bidwell Street	From West Main Street to Harrison Avenue (NC 28)	

('76 Code, App. I, § 105) (Am. Ord. passed 12-3-90; Am. Ord. passed 11-6-95)

(B) Twenty-five miles per hour speed limit on the following streets:

Street	*Location*	*Ord. Date(s)*
Baird Cove Road (SR 1319)	From a point 0.07 mile west of SR 1442, eastward to SR 1442	2-3-92
Iotla Street (SR 1323)	From Church Street to Riverview Street (SR 1323)	5-6-74
Riverview Street	From US 441 Business to SR 1323	
Lakeside Drive (SR 1324)	From US 441 Business northward to a point 0.53 mile north of US 441 Business	10-29-92
Wayah Street (SR 1695)	From Porter Street (US 441 Business) to Depot Street (SR 1659)	8-24-70; 5-6-74
SR 1157	From a point 0.20 mile east of US 441 Business, eastward to US 441 Business	11-4-02
SR 1718	From SR 1719 northward to US 441 Business	2-3-92
SR 1719	From SR 1718 eastward to a point 0.23 mile east of SR 1718	2-3-92

('76 Code, App. I, § 106)

(C) Forty-five miles per hour speed limit on the following streets:

Street	*Location*	*Ord. Date*
NC 28	From SR 1571 to the eastern corporate limit, eastern corporate limit, approximately 1.02 miles east of SR 1571	5-6-74

('76 Code, App. I § 107)

SCHEDULE III: TRUCK TRAFFIC PROHIBITED.

(A) It shall be unlawful to drive any truck of one ton or greater size except for the purposes of making a delivery or to a destination within the designated areas, on the following streets, which are to be designated by properly posted signs:

Street	*Ord. Date*
Riverview Street from White Oak Street to Iotla Street	9-5-78
On Green Street from West Main Street to Harrison Avenue	9-5-78
On Bidwell Street from West Main Street to Harrison Avenue	9-5-78

(B) It shall be unlawful and a violation of the provisions of this ordinance for any person to operate a truck on any of the streets above mentioned, within the designated areas specified, unless making a delivery within the designated area, or proceeding to a destination within the designated area.

(C) A violation of this ordinance shall constitute a misdemeanor punishable by a fine not to exceed $50 or a prison sentence of not more than 30 days.
(Ord. passed 9-5-78)

CHAPTER 75: PARKING SCHEDULES

Section

I. Parking prohibited at all times
II. Parking time limited
III. Diagonal parking

SCHEDULE I: PARKING PROHIBITED AT ALL TIMES.

(A) Parking shall be prohibited at all times on the following streets:

Street	*Location*	*Ord. Date*
Harrison Avenue	Right hand side of Harrison Avenue, going out of town, from its intersection with Church Street to its intersection with Bidwell	6-9-88
Phillips Street	From its intersection with Palmer Street to its intersection with Wayah Street	——
Derby Street	West side between Main and Palmer	——
The Public Square and Main Street	The Public Square, except in spaces designated for parking by painted lines, and on Main Street within 15 feet of the cross streets entering the square	——
Wayah Street	Between its intersection with Porter Street on the west and its intersection with Depot Street on the east	——
Church Street	South side	8-5-74
Church Street	North side from the steps at the Presbyterian Church to the corner of Church Street and Harrison Avenue	8-5-74
Bidwell Street		

(B) (1) It shall be unlawful for any person to park any farm tractor, house trailer or mobile home, semi-trailer, trailer or road tractor, truck tractor, motor truck larger than a small pickup truck, property hauling vehicles, or special mobile equipment, on Main Street in the town; provided this shall not prohibit the parking of trucks and other property hauling vehicles for a reasonable length of time for the purpose of loading and unloading.

(2) It shall be unlawful to park any vehicle, truck, trailer or tractor within the spaces in the town marked, "NO PARKING," except for a reasonable time for the purpose of loading and unloading.

(3) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and shall be fined $1 for the first offense and $5 for each subsequent offense.
(Ord. passed 1-5-70)

(C) Every place designated as a bus stop.

(D) Phillips Street from Main to Palmer (one ton trucks or larger).
('76 Code, App. I, § 101)

SCHEDULE II: PARKING TIME LIMITED.

Parking shall be limited to 15 minutes at the following location:

Location	*Time Limit*	*Ord. Date*
Space in front of the United States Post Office	Parking limited to 15 minutes	—

('76 Code, App. I, § 102)

SCHEDULE III: DIAGONAL PARKING.

All vehicles shall be parked at an angle of approximately 45 degrees with the curb on the following streets or portions thereof:

Description	*Ord. Date*
Main Street, from the top of the hill at the east end thereof to the top of the hill at the west end thereof. ('76 Code, App. I, § 103)	—

TITLE IX: GENERAL REGULATIONS

Chapter

90. ABANDONED VEHICLES

91. ANIMALS

92. FIRE PREVENTION

93. GENERAL HEALTH REGULATIONS

94. NUISANCES

95. STREETS AND SIDEWALKS

96. LITTLE TENNESSEE RIVER GREENWAY

CHAPTER 90: ABANDONED VEHICLES

Section

90.01	Definitions
90.02	Duty of owner to remove
90.03	Removal by town
90.04	Costs of removal; notice to owner
90.05	Sale of abandoned motor vehicles
90.06	Disposition of proceeds of sale
90.07	Disposition of junked motor vehicles
90.08	Disposition of unidentified vehicles
90.09	Disposition of proceeds of sale
90.10	Immunity

§ 90.01 DEFINITIONS.

A motor vehicle shall be deemed to have been abandoned for the purposes of this chapter in the following circumstances:

(A) It is left unattended upon a street or highway for longer than 12 hours in violation of a law or ordinance prohibiting parking;

(B) It is left unaccompanied on property owned or operated by the town for a period longer than 24 hours;

(C) It is left unaccompanied on any public street or highway for a period longer than seven days;

(D) It is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours.
('76 Code, § 8-3001)

(E) Whenever a motor vehicle is found to be an abandoned motor vehicle as defined in this section and, in addition, is found to be inoperable, or is partially dismantled or wrecked, or is more than 5 years old and worth less than $100, or does not display a current license plate, it shall be deemed to be a junked motor vehicle. ('76 Code, § 8-3002)

Statutory reference:

Authority to regulate abandoned and junked motor vehicles, see G.S. § 160A-303

§ 90.02 DUTY OF OWNER TO REMOVE.

(A) If a motor vehicle is abandoned or junked on a public street or highway, it shall be the duty and responsibility of the owner of the motor vehicle to cause the removal thereof immediately and to pay all costs incident to the removal.

(B) It shall be unlawful for any person to allow a motor vehicle owned by him to remain abandoned on a public street or highway after notice has been duly given to the person to have the vehicle removed.
('76 Code, § 8-3003)

§ 90.03 REMOVAL BY TOWN.

Whenever any motor vehicle is abandoned or junked on a public street or highway, or on property owned or operated by the town, or on private property, any vehicle may be removed by or under the direction of the Town Chief of Police to a storage garage or area; provided, no vehicle shall be removed from private property without the written request or permission of the owner, lessee, or occupant thereof unless the same has been declared by the Building Inspector or the Board to be a health or safety hazard.
('76 Code, § 8-3004)

§ 90.04 COSTS OF REMOVAL; NOTICE TO OWNER.

(A) When an abandoned or junked motor vehicle is removed from private property at the request of the owner, lessee or occupant thereof, the person at whose request the vehicle is removed shall be required to pay or otherwise indemnify the town for any expenses incurred by reason of the removal and storage of the vehicle.

(B) The owner of any vehicle removed hereunder from any public street or highway, or any property owned or operated by the town, or any private property, shall pay to the town all reasonable costs incident to the removal and storage of the vehicle and to locating the owner thereof.

(C) Written notice of each removal of an abandoned or junked vehicle and of the possible sale or disposition thereof shall be given as promptly as possible to the owner thereof at his last known address according to the latest registration certificate or certificate of title on file with the North Carolina Department of Motor Vehicles.

(D) Notice need not be given to the registered owner when the vehicle does not display a license plate and the vehicle identification numbers have been removed or defaced so as to be illegible.
('76 Code, § 8-3005)

§ 90.05 SALE OF ABANDONED MOTOR VEHICLES.

If an abandoned motor vehicle is worth $100 or more and should the owner thereof refuse to pay the aforementioned costs or should the identity or whereabouts of the owner be unknown and unascertainable after a diligent search, it shall, after being held by the town for 30 days and after 20 days' written notice to the registered owner at his last known address if his identity is known, and to the holders of all liens of record against the vehicle, and to the North Carolina Department of Motor Vehicles, be sold by the Chief of Police or his designee at public auction. Provided, however, that any person having an interest in the vehicle may redeem it at any time before the sale by paying all costs accrued to date.
('76 Code, § 8-3006)

§ 90.06 DISPOSITION OF PROCEEDS OF SALE.

The proceeds of the sale of an abandoned motor vehicle shall be paid to the Town Treasurer who shall pay from the proceeds the costs of removal, storage, investigation, sale, and liens, in that order. The remainder of the proceeds of sale, if any, shall be paid over to the registered owner, or held by the Town Treasurer for 60 days if the registered owner cannot be located with reasonable diligence. If the owner does not claim the remainder of the proceeds within 60 days after the sale, the funds shall be deposited into the town general fund and the owner's rights therein shall be forever extinguished.
('76 Code, § 8-3007)

§ 90.07 DISPOSITION OF JUNKED MOTOR VEHICLES.

(A) With the consent of the owner, the Chief of Police or his designee may dispose of any vehicle as a junked motor vehicle without holding it for any prescribed period of time. If an unclaimed abandoned motor vehicle appears to be worth less than $100, the Chief of Police or his designee may dispose of the vehicle as a junked vehicle.

(B) Any unclaimed junked motor vehicle as defined by this chapter shall be held for a period of at least 15 days. The owner of any vehicle may claim his vehicle during the 15 day retention period by exhibiting proof of ownership to the Chief of Police and after paying all reasonable costs incident to the removal and storage of the vehicle plus administrative expenses. If after the vehicle is held 15 days it remains unclaimed, the vehicle may be destroyed or sold at private sale as junk. Within 15 days after final disposition of a junked motor vehicle, written notice thereof shall be given to the Department of Motor Vehicles that the vehicle has been determined to be a junked motor vehicle and disposed of as such. The notice shall contain as full and accurate a description of the vehicle as can be reasonably determined.
('76 Code, § 8-3008)

§ 90.08 DISPOSITION OF UNIDENTIFIED VEHICLES.

Vehicles not displaying a license plate, and whose identification numbers have been removed or defaced so as to be illegible may be destroyed or sold at a private sale, without regard to value, after being held for 48 hours.
('76 Code, § 8-3009)

§ 90.09 DISPOSITION OF PROCEEDS OF SALE.

The proceeds of the sale of a junked motor vehicle, after all costs of removal, storage, investigation and sale, and satisfaction of all liens of record on the vehicle have been deducted therefrom, shall be held by the Town Treasurer for 30 days and paid to the registered owner upon demand. If the owner does not appear to claim the remainder of the proceeds within 30 days after disposal of the vehicle, the funds shall be deposited into the town general fund and the owner's rights therein shall be forever extinguished.
('76 Code, § 8-3010)

§ 90.10 IMMUNITY.

Neither the town nor any person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned, lost or stolen vehicle for disposing of the vehicle as contemplated by this chapter.
('76 Code, § 8-3011)

CHAPTER 91: ANIMALS

Section

General Provisions

91.01 Animals at large
91.02 Hogs
91.03 Fowl
91.04 Dead animals

Dogs

91.15 Dogs
91.16 Habitual barking; investigation of complaints

91.99 Penalty

GENERAL PROVISIONS

§ 91.01 ANIMALS AT LARGE.

No horse, goat, cattle, or other animals, except dogs, shall be permitted to run at large within the Town Limits. All animals caught running at large shall be impounded by the police and unless claimed within four days shall be disposed of as the town shall deem best.
('76 Code, § 8-2001) Penalty, see § 91.99

§ 91.02 HOGS.

It shall be unlawful for any person, firm or corporation to keep, maintain, harbor a hog, swine, sow or boar within 500 feet of any dwelling house, apartment house, hotel or other structure occupied as living quarters by any person and within the corporate limits of the town. Any person violating the provisions of this chapter shall be fined $1 for each and every day that any on of the animals is kept, maintained or harbored.
('76 Code, § 8-2003) Penalty, see § 91.99

§ 91.03 FOWL.

(A) There shall be no chicken, turkeys, or other fowl grown or kept on a commercial scale within the corporate limits of the town. Commercial status shall be determined by a flock size of more than 50.

(B) Flocks of less than 50 creating a nuisance will upon order of the Board, after recommendations of the County Health Officer, be removed within 30 days of official notice from the Board.
('76 Code, § 8-2004) Penalty, see § 91.99

§ 91.04 DEAD ANIMALS.

(A) No person shall permit any dead animal that belonged to him or was in his care to remain unburied within the corporate limits of the town longer than 24 hours after he is notified thereof.

(B) It shall be unlawful for any person to bury any dead animal within the town except in accordance with all applicable laws and regulations.
('76 Code, § 8-2005) Penalty, see § 91.99

DOGS

§ 91.15 DOGS.

(A) The owner or custodians of any dog over the age of three months shall on or before the first day of July, each year, register the dog with the Clerk. No dog shall be registered unless there is first exhibited to the Clerk a certificate of a practicing veterinarian of North Carolina to the effect that the dog has been vaccinated against rabies within three months prior to the date of the application for registration. The registration fee shall be $1 for a male dog and $2 for a female dog. The Clerk shall issue to the owner or custodian of the registered dog a tag to be affixed to a collar around the neck of the dog and displayed visibly upon the dog at all times.

(B) Any dog not displaying the tag shall be impounded by any police officer of the Town. The impounded dog may be reclaimed by the owner or custodian upon payment of a fee of $5 after due proof of ownership or custody, and only upon exhibition of a registration tag to the Clerk, the tag to be valid and in force at the time of the exhibition, and only upon attachment of the tag to a collar around the dog's neck.

(C) All dogs not reclaimed within four days shall be destroyed by the Police Department under the direction of the Clerk.

(D) No owner or custodian of any bitch shall allow the bitch to run at large while in heat, within the Town Limits. It shall be the duty of the Chief of Police to dispose of any bitch the owner of which cannot be found within four days after the dog has been impounded.
('76 Code, § 8-2002) Penalty, see § 91.99
Statutory references:
Rabies vaccination required, see G.S. §§ 130A-184 et seq.

§ 91.16 HABITUAL BARKING; INVESTIGATION OF COMPLAINTS.

(A) Any person keeping within the corporate limits of the Town of Franklin, one or more dogs which, by prolonged and habitual barking, howling or whining cause serious annoyance to neighboring residents and interfere with the reasonable use and enjoyment of the premises occupied by the residents shall be guilty of maintaining a nuisance.

(B) Upon written and signed complaint being made to the Police Department by any two residents of the Town of Franklin, not of the same household, who agree to appear and testify as witnesses for the prosecution, in court, if called upon, a representative of the Police Department shall investigate the complaint within 12 hours, and upon finding to the satisfaction of the representative of the Police Department that a nuisance exists, the representative of the Police Department shall notify the person against whom the complaint is directed that a complaint has been received, and thereupon, the persons shall abate the nuisance declared in division (A) above, within 24 hours from the time of notification.
(Ord. passed 9-14-88) Penalty, see § 91.99

§ 91.99 PENALTY.

Any person failing or refusing to abate the nuisance declared herein within 24 hours from the time of notification shall be guilty of a Class 3 misdemeanor and upon conviction, shall be subject to a fine not exceeding $50, or imprisoned not exceeding 30 days, as provided by G.S. § 14-4.
(Ord. passed 9-14-88)

CHAPTER 92: FIRE PREVENTION

Section

92.01 State Fire Code adopted by reference
92.02 Lots kept free from fire hazards
92.03 Regulating outdoor burning

Cross-reference:

For provisions concerning fire limits, see Chapter 150

§ 92.01 STATE FIRE CODE ADOPTED BY REFERENCE.

The State Fire Code is hereby adopted by reference as if fully set forth herein.

§ 92.02 LOTS KEPT FREE FROM FIRE HAZARDS.

It shall be unlawful for any person to permit or suffer rubbish, refuse or articles of combustible or inflammable nature to accumulate or remain on any lot or premises.
('76 Code, § 3-2014) Penalty, see § 10.99

§ 92.03 REGULATING OUTDOOR BURNING.

(A) It shall be unlawful for person or persons to burn leaves, brush and other vegetation matter within the city limits without first obtaining a permit for the burning from the Chief of the Fire Department, or the Town Administrator, who may issue permits under the supervision and direction of the Fire Chief.

(B) A separate permit will be required for each day the burning is to be done.

(C) All burning will be performed only when the persons have on and connected to their water systems sufficient garden hose to reach the points of burning to extinguish the flame in case of high winds arising after burning starts.

(D) Persons who violate this chapter will be subject to a fine not to exceed $50 and the cost of dispatching the fire department to the scene of the burning.
(Ord. passed 11-6-78) Penalty, see § 10.99

CHAPTER 93: GENERAL HEALTH REGULATIONS

Section

93.01 Unlawful to violate county health regulations
93.02 Unlawful to interfere with health officer
93.03 Burial regulated

§ 93.01 UNLAWFUL TO VIOLATE COUNTY HEALTH REGULATIONS.

It shall be unlawful for any person, firm or corporation to violate any lawfully adopted rule or regulation of the County Board of Health. The enforcement of this subchapter shall be under the supervision of the County Health Officer.
('76 Code, § 8-5001) Penalty, see § 10.99

§ 93.02 UNLAWFUL TO INTERFERE WITH HEALTH OFFICER.

It shall be unlawful for any person to hinder, obstruct or delay the Health Officer or any of his assistants in the lawful discharge of their duties.
('76 Code, § 8-5002) Penalty, see § 10.99

§ 93.03 BURIAL REGULATED.

It shall be unlawful for any person to bury any human being on any lot or premises within the corporate limits except within an approved cemetery and in accordance with all applicable laws and regulations.
('76 Code, § 8-5005) Penalty, see § 10.99

CHAPTER 94: NUISANCES

Section

Noise

94.01 Unnecessary noises prohibited
94.02 Unnecessary noises; noises expressly prohibited

Weeds and Refuse

94.15 Uncontrolled growth of weeds and accumulation of refuse declared public nuisance
94.16 Complaint and investigation
94.17 Notice to abate nuisance
94.18 Failure of owner to abate nuisance
94.19 Cost incurred by owner
94.20 Charges become a lien
94.21 Procedure is alternative to other authorized procedures

NOISE

§ 94.01 UNNECESSARY NOISES PROHIBITED.

It shall be unlawful for any person, firm or corporation to create or assist in creating, permit, continue, or permit the continuance of any unreasonably loud, disturbing and unnecessary noise in the Town. Noise of the character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.
('76 Code, § 8-6001)
Statutory reference:
Authority to regulate loud noise, see G.S. § 160A-184

§ 94.02 UNNECESSARY NOISES; NOISES EXPRESSLY PROHIBITED.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but the enumeration shall not be deemed to be exclusive, namely:

(A) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any 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 police, fire or other emergency vehicle.

(C) The use or operation of any piano, manual or automatic, phonograph, radio, loud speaker, or any other instrument, or sound amplifying devices so loudly as to disturb persons in the vicinity thereof, or in a manner as renders the same a public nuisance; provided, however, that upon application to the Manager, permits may be granted to responsible organizations to produce programs in music, speeches or general entertainment.

(D) The keeping of any animal or bird which by causing frequent or loud 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 a manner as to create loud or unnecessary grating, grinding, rattling or other noise.

(F) The blowing of any steam whistle attached to any stationary boiler except to give notice 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, motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(H) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced.

(I) The erection (including excavation), demolition, alteration or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays except in the case of urgent necessity in the interest of public safety and then only with a permit from the Town Clerk, which permit may be renewed for a period of three days or less while the emergency continues.

(J) The creation of any excessive noise on any street adjacent to any school, institution of learning, or court while the same is 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 creation of any excessive noise on Sundays on any street adjacent to any church, provided, conspicuous signs are displayed in the streets adjacent to churches indicating that the same is a church street.

(L) The creation of loud and excessive noise in connection with loading or unloading any vehicle, of the opening and destruction of bales, boxes, crates, and containers.

(M) The sounding of any bell or gong, attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof.

(N) The shouting and crying of peddlers, barkers, hawkers and vendors which disturbs the quiet and peace of the neighborhood.

(O) The use of any drum, loud speaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, or sale or display of merchandise.

(P) The use of any mechanical loud speakers or amplifiers on trucks or other moving vehicles for advertising purposes or other purposes except where specific license is received from the Board of Aldermen.

(Q) The conducting, operating or maintaining of any garage or filling station in any residential district so as to cause loud or offensive noises to be emitted therefrom between the hours of 11:00 p.m. and 7:00 a.m.

(R) The firing or discharging of squibs, crackers, gunpowder or other combustible substance in the streets or elsewhere for the purpose of making noise or disturbance except by permit from the Board.
('76 Code, § 8-6002)

WEEDS AND REFUSE

§ 94.15 UNCONTROLLED GROWTH OF WEEDS AND ACCUMULATION OF REFUSE DECLARED PUBLIC NUISANCE.

The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits 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 24 inches causing or threatening to cause a hazard detrimental to the public health or safety.

(B) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitance 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 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.

(D) Any condition detrimental to the public health which violates the rules and regulations of the County Health Department.
('76 Code, § 8-4001)
Statutory reference:
Authority to abate public health nuisances, see G.S. § 160A-193.

§ 94.16 COMPLAINT AND INVESTIGATION.

The Manager, upon notice from any person of the existence of any of the conditions described in § 94.15 shall cause to be made by the appropriate County Health Department official, or town official, the investigation as may be necessary to determine whether, in fact, the conditions exist as to constitute a public nuisance.
('76 Code, § 8-4002)

§ 94.17 NOTICE TO ABATE NUISANCE.

Upon a determination that the conditions constituting a public nuisance exist, the Chief of Police shall notify, in writing, the owner, occupant or person in possession of the premises in question of the conditions constituting the public nuisance and shall order the prompt abatement thereof within five days from the receipt of the written notice.
('76 Code, § 8-4003)

§ 94.18 FAILURE OF OWNER TO ABATE NUISANCE.

(A) If any person, having been ordered to abate a public nuisance, fails, neglects, or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of the order, the Town Clerk shall cause the condition to be removed or otherwise remedied by having employees of the town go upon the premises and remove or otherwise abate the nuisance under the supervision of an officer or employee designated by the Board.

(B) Any person who has been ordered to abate a public nuisance may within the time allowed by this chapter request the town in writing to remove the condition, the cost of which shall be paid by the person making the request.
('76 Code, § 8-4004)

§ 94.19 COST INCURRED BY OWNER.

The actual cost incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of the lot or parcel of land, and it shall be the duty of the tax collector to mail a statement of the charges to the owner or other person in possession of the premises with instructions that the charges are due and payable within 30 days from the receipt thereof. ('76 Code, § 8-4005)

§ 94.20 CHARGES BECOME A LIEN.

In the event charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges as provided for in § 94.19 the charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. § 160A-193.
('76 Code, § 8-4006)

§ 94.21 PROCEDURE IS ALTERNATIVE TO OTHER AUTHORIZED PROCEDURES.

The procedure set forth in this chapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this chapter shall not prevent the town from proceeding in a criminal action against any person, firm, or corporation violating the provisions of this chapter as provided in G.S. 14-4.
('76 Code, § 8-4007)

CHAPTER 95: STREETS AND SIDEWALKS

Section

General Provisions

95.01 Littering prohibited
95.02 Littering from vehicles
95.03 Tree trimmings
95.04 Snow and ice removal
95.05 Playing ball on streets prohibited
95.06 Moving structures upon streets
95.07 Use of nails and tacks restricted
95.08 Installation of banners and like sign

Obstructing

95.20 Display of goods
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95.23 Private telephones regulated

Excavation and Repair

95.35 Permit to dig in streets
95.36 Application for permit; fees
95.37 Municipal liability
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Naming and Addressing Streets and Roads

95.45 Purpose and intent
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Parades and Demonstrations

95.55 Definitions
95.56 Permit required
95.57 Requirements and issuance of permits
95.58 Certain activities prohibited
95.59 Revocation of permit
95.60 Interference prohibited
95.61 Additional regulations applicable to picketing
95.62 Exceptions

95.99 Penalty

Cross-reference:

For provisions concerning vehicles not to be driven on sidewalks, see § 71.03

GENERAL PROVISIONS

§ 95.01 LITTERING PROHIBITED.

It shall be unlawful for any person, firm, organization or private corporation to throw or deposit upon any street or sidewalk, or upon any private property, except with written permission of the owner or occupant of the private property any trash, refuse, garbage, building material, cans, bottles, broken glass, paper, or any type of litter.
('76 Code, § 6-2011) Penalty, see § 95.99

§ 95.02 LITTERING FROM VEHICLES.

It shall be unlawful for any person while a driver or a passenger in a vehicle to throw or deposit litter upon any street or other public place within the Town, or upon private property.
('76 Code, § 6-2012) Penalty, see § 95.99

§ 95.03 TREE TRIMMINGS.

It shall be unlawful for any person to place or allow to be placed any tree trimmings or shrubbery on any street or sidewalk.
('76 Code, § 6-2013) Penalty, see § 95.99

§ 95.04 SNOW AND ICE REMOVAL.

Every occupant of a store building in front of which the sidewalk is paved with stone, brick, asphalt or cement, shall remove snow, ice or other obstruction from the sidewalk at the earliest possible time and as soon as the weather permits.
('76 Code, § 6-2014)

§ 95.05 PLAYING BALL ON STREETS PROHIBITED.

No person shall play baseball, softball, football, soccer or any other game of ball, nor shall any person throw or catch a ball on any of the streets of the town.
('76 Code, § 6-2015) Penalty, see § 95.99

§ 95.06 MOVING STRUCTURES UPON STREETS.

It shall be unlawful for any person, firm or corporation to move, or have moved, any house, building or other structure upon the street, or streets of the town without first obtaining from the town a permit to do so.
('76 Code, § 6-2016) Penalty, see § 95.99

§ 95.07 USE OF NAILS AND TACKS RESTRICTED.

It is hereby declared unlawful for any person to drive any nails or tacks in the telephone, telegraph or electric light poles, or in any house or store situated on any sidewalk or street of the town except with the permission of the owner first had and obtained.
('76 Code, § 6-2017) Penalty, see § 95.99

§ 95.08 INSTALLATION OF BANNERS AND LIKE SIGNS.

(A) It shall be unlawful to place, construct or install a banner or sign over a street or a roadway in the town except that the sign be anchored on both sides of the street or roadway in a manner and place approved by the Board of Aldermen.

(B) No banner or sign, placed over the streets or roadways of the town shall be anchored or either side of the street to an electric power pole, except that such a banner or sign may be erected over the streets and roadways of the town to power poles, when such sign or banner is installed by employees of Nantahala Power and Light Company and/or Duke Power Company or is installed with permission of the Nantahala Power and Light Company and/or Duke Power Company and under the supervision of employees of Nantahala Power and Light Company and/or Duke Power Company.
(Ord. passed 10-5-92)

OBSTRUCTING

§ 95.20 DISPLAY OF GOODS.

(A) It shall be unlawful for any person, persons, or corporation to obstruct any sidewalk or street, or any part thereof, within the corporate limits of the town by placing thereon any advertising device, weighing device, goods offered for sale or any other object that will in any way obstruct the free use to the public of the sidewalk or street or part thereof.

(B) This section shall not apply to persons who have secured a permit from the Building Inspector to build or repair any building adjacent to any sidewalk or street; provided that the person or corporation holding the permit shall at all times keep the obstructed portion of the sidewalk or street fenced so that the same cannot be used by the public, and at night time shall keep sufficient warning lights displayed at the obstruction.
('76 Code, § 6-2001) (Ord. passed 7-7-42) Penalty, see § 95.99

§ 95.21 CONSTRUCTION NEAR SIDEWALK.

Before building or remodeling at any place where the same is in close proximity to the sidewalk, a passageway shall be constructed so as to leave the sidewalk unobstructed and provide safe and easy passage.
('76 Code, § 6-2002)

§ 95.22 TEMPORARY STRUCTURES.

No person, firm or corporation shall maintain any tent, booth, telephone or temporary structure of any sort whatsoever on any of the streets, squares, alleys or other public places in the town without the express permission in writing of the town, which permission shall be signed by the Manager and countersigned by the Chief of Police, and no permission shall be granted except for a temporary and special purpose. Each day or part of day that the tent, booth, telephone or other structure shall be maintained shall constitute a new, separate and distinct offense within the contemplation hereof.
('76 Code, § 6-2003) (Ord. passed 9-3-24) Penalty, see § 95.99

§ 95.23 PRIVATE TELEPHONES REGULATED.

(A) It shall be unlawful for any person or persons to install on any property owned by the town a telephone for private use without the written permission of the town.

(B) The purpose of this section is to assure the general public a free use of the town's streets and sidewalks by eliminating private telephones installed so as to congest pedestrian traffic on sidewalks or vehicle traffic on streets.
('76 Code, § 8-6006) (Ord. passed 8-7-72) Penalty, see § 95.99

EXCAVATION AND REPAIR

§ 95.35 PERMIT TO DIG IN STREETS.

No person shall make any excavation or opening or dig any ditch, trench, tunnel or hole in, along, across or under any street, sidewalk or other public place for the purpose of laying or placing therein any pipe, wires, poles or for any other purposes, unless a written permit therefor has been issued by the Manager or some other officer of the town vested with authority to grant the same. Provided, that a permit shall not be required where the work is performed under a contract with the town but in the event that it becomes necessary to the work that a sidewalk or street must be wholly or partially obstructed, the person shall notify the Manager, the Public Works Department and the Police Department at least two hours before obstructing the sidewalk or street, unless prevented by sudden emergency.
('76 Code, § 4-1021) Penalty, see § 95.99

§ 95.36 APPLICATION FOR PERMIT; FEES.

All persons desiring a permit in order to make an opening in any street or sidewalk, as set forth in § 95.35, shall make written application therefor, which application shall show the location of the proposed opening, the purpose thereof and the approximate number of square yards of surface to be cut. The application shall be accompanied by the fee required by this section. The fee required for making any opening in any street or sidewalk shall be fixed by the Board and kept on file in the office of the Clerk.
('76 Code, § 4-1022)

§ 95.37 MUNICIPAL LIABILITY.

Any person obtaining a permit as provided for in §§ 95.35 and 95.36 herein agrees, as a condition of the issuance of the permit to indemnify and hold harmless the town against any claims or expenses, including attorney's fees for bodily injury or property damage for accidents or occurrences arising out of the person's operations, excluding only the liability of the town for its sole negligence except in connection with general supervision of work performed by the person.
('76 Code, § 4-1023)

§ 95.38 STREET REPAIR.

When any part of any street, sidewalk, alley or other public place of the town shall be torn or dug up for any purpose, the person making the excavation or opening shall have the duty of refilling the excavation or opening so as to restore it to essentially the same condition that existed prior to the excavation or opening and the refilling shall be done in accordance with the standards and specifications issued by the Director of Public Works, or his duly authorized representative. Any person, firm or corporation, neglecting, refusing, or failing to comply with any provisions of this subchapter shall be guilty of a violation thereof; and where the neglect, refusal or failure is continued, after notice from the Director of Public Works or his authorized representative, every day's continuance thereafter shall constitute a separate and distinct offense.
('76 Code, § 4-1024)

§ 95.39 LEAVING EXCAVATIONS UNPROTECTED.

It shall be unlawful for any person, firm or corporation who obtains a permit under the provisions of this article to do any excavation of any kind which may create or cause a dangerous condition in or near any street, alley, sidewalk or public place of the town without placing and maintaining proper guard rails and signal lights or other warnings at, in or around the same, sufficient to warn the public of the excavation or work, and to protect all persons using reasonable care from injuries on account of same.
('76 Code, § 4-1025) Penalty, see § 95.99

§ 95.40 SUPERVISION AND CONTROL.

All excavations and work in streets, sidewalks, alleys or public places of the town shall be under the supervision and control of the Director of Public Works, whose duty it shall be to inspect the same from time to time during the progress thereof. Upon the completion thereof, he shall make a final inspection and see that the street, sidewalk or public place is restored to a condition as good in all respects as before the excavation or work was made or done, and that all debris, materials, tools and equipment are removed therefrom. Any person refusing or failing to comply with any provision of this section shall be guilty of a violation thereof; and where the failure or refusal is continued after notice from the Director of Public Works, every day's continuance shall constitute a separate and distinct offense.
('76 Code, § 4-1026)

§ 95.41 DISPOSITION OF FEES.

All fees collected under the provisions of this subchapter shall be paid into the general fund.
('76 Code, § 4-1027)

NAMING AND ADDRESSING STREETS AND ROADS

§ 95.45 PURPOSE AND INTENT.

The purpose of this subchapter is to facilitate the provision of adequate public safety and emergency response service, and to minimize difficulty in locating properties and buildings for public service agencies and the general public. It intends to achieve this purpose by providing a uniform system for naming streets and roads within the town limits, and for assigning addresses to all properties and buildings throughout the town. This subchapter is hereby adopted under the authority and provisions of G.S. 160A.
(Ord. passed 3-4-96)

§ 95.46 DEFINITIONS.

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

ADDRESS PROGRAM ADMINISTRATOR. The town official charged with the administration of this subchapter, including his authorized representative.

BUILDING. A structure having a roof supported by columns or walls for the shelter of persons, residential or business use. When separated by division walls from the ground up without openings, each such enclosure may be deemed a separate building.

DRIVEWAY. A private way, beginning at the property line of a lot abutting (and giving access from) a public street, recorded private road easement or private right-of-way, and leading to a building on that lot.

PUBLIC STREET. Any road, street, highway, thoroughfare, or other way of passage within the town limits that has been irrevocably dedicated to the public or in which the public has acquired rights by prescription, without regard to whether it is open for travel.

PRIVATE ROAD. Any one-way or two-way road for ingress and/or egress that serves two or more properties, but not the general public.

STREET ADDRESS. The combination of numbers and street or road name assigned by the town to identify a particular building or lot.
(Ord. passed 3-4-96)

§ 95.47 ADMINISTRATION AND APPLICATION.

The Address Program Administrator will be responsible for the interpretation and administration of this subchapter, including:

(A) Assigning all numbers for properties and buildings.

(B) Compiling a database of addresses for each property and building.

(C) Recommending changes in existing addresses when necessary to facilitate sequential house numbers along a street or road.

(D) Designating individual unit addresses within multiple housing units in conformity with this subchapter.
(Ord. passed 3-4-96)

§ 95.48 DISPLAY OF STREET AND ROAD ADDRESS NUMBERS.

(A) Every owner of improved property shall purchase and display official address numbers that are visible from the street or road on which the property fronts.

(B) The following criteria must be used to properly display the address number:

(1) Individual numbers must be:

(a) A minimum of three inches in height for all structures so as to be seen easily from the street or road.

(b) Set on a background of a contrasting color.

(c) Plain block numerals, not words.

(2) On a corner lot, the address number should face the street or road named in the address.

(3) If a building is more than 75 feet from any street or road, the address number shall be displayed on a sign attached to a fence, gate, lawn stake, mailbox, etc., adjacent to the street or road right-of-way.

(C) The Address Program Administrator will have the right to authorize and approve alternate methods of displaying address numbers that meet the intent of this subchapter, when strict adherence to these standards can not reasonably be met.
(Ord. passed 3-4-96)

§ 95.49 NEW STREET AND ROAD NAMES.

(A) No new public street within the regulatory jurisdiction of the town shall be named without approval of the Board of Aldermen.

(B) No new private road name shall be recognized by this subchapter or added to town's list of street and road names without prior approval of the Board of Aldermen.

(C) The name of any new street or road, public or private, shall not duplicate or be similar to any other street or road name already named in accordance with this subchapter or any subsequent ordinances or amendments thereto. This division shall not apply to extensions of existing streets or roads.

(D) Developers establishing new public streets or roads shall pay the town for the actual cost of purchasing and erecting street signs that meet the town's standards.

(E) The names of private roads (including mobile home park roads), which require naming to facilitate postal delivery and emergency response, shall be recognized by the town at the request of the citizens who own property adjacent to the road. Such a road must serve at least three households.

(F) While suggestions and requests for certain names may be accepted from the general public, the sole authority and responsibility for naming streets and roads within the town limits rests with the Board of Aldermen.
(Ord. passed 3-4-96)

§ 95.50 RENAMING STREETS AND ROADS.

Property owners who want to have the name of a street or road changed must submit a petition to the Address Program Administrator for verification. The Address Program Administrator will make recommendations to the Board of Aldermen once the following criteria have been met:

(A) A $25 fee for each street or road shall accompany any petition requesting that an existing street or road name be changed.

(B) The petition should include: the existing street or road name, the proposed street or road name, and the signatures of 75% of those persons owning property adjacent to that street or road.

(C) In the event the Board of Aldermen approve the request, the petitioners shall be required to pay town the costs of purchasing and erecting new signs. The sole authority for renaming streets and roads within the town limits rests with the Board of Aldermen.
(Ord. passed 3-4-96)

§ 95.51 NUMBERS FOR FUTURE BUILDINGS.

All residential and business buildings erected after the adoption of this subchapter shall be assigned a number prior to the issuance of a certificate of occupancy by the Building Inspector. Owners shall purchase and display such number as provided in § 95.48.
(Ord. passed 3-4-96)

§ 95.52 ENFORCEMENT.

Occupants of buildings that do not comply with this subchapter will be notified and requested to meet its requirements within 60 days from the date of notification. If, after 60 days, these requirements have not been met, a warning notice will be issued. If, within 30 days of receiving a warning notice (by hand delivery, registered or certified mail), the occupant does not comply with this subchapter, he or she shall be guilty of a misdemeanor.
(Ord. passed 3-4-96) Penalty, see § 95.99.

PARADES AND DEMONSTRATIONS

§ 95.55 DEFINITIONS.

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

BLOCK. That portion of any street lying between its intersections with other streets.

GROUP DEMONSTRATION. Any assembly together or concert of action between or among two or more persons for the purpose of protesting any matter or of making known any position or promotion of the persons, or of or on behalf of any organization or class of persons, or for the purpose of attracting attention of the assembly.

PARADE. Any assemblage of two or more persons participating in or operating any vehicle in any march, ceremony, show, exhibition or procession of any kind in or upon the public streets, sidewalks, alleys, parks, or other public grounds or places.

PERSON. Any person, firm, corporation, partnership, association, or other organization, whether formal or informal.

PICKET LINE. Any two or more persons formed together for the purpose of making known any position or promotion of the persons, or on behalf of any organization or class of persons.
('76 Code, § 6-2021) (Ord. passed 12-6-76)

§ 95.56 PERMIT REQUIRED.

It shall be unlawful for any person to organize, conduct or participate in any parade, picket line or group demonstration in or upon any street, sidewalk, alley, or other public place within the town unless a permit therefor has been issued by the town in accordance with the provisions of this chapter.
('76 Code, § 6-2022) (Ord. passed 12-6-76) Penalty, see § 95.99

§ 95.57 REQUIREMENTS AND ISSUANCE OF PERMITS.

The Chief of Police or his designee is authorized to issue permits as required in the preceding section, and in the issuance thereof he shall:

(A) Require a written application for permit to be filed not less than 24 hours in advance of the parade; picket line, or group demonstration. The application shall be on a form prescribed by the Chief, shall require the application to be signed by the applicant or applicants, shall require that the applicant show the proposed time, place, purpose and size of the parade, picket line or group demonstration and whether or not any minors below the age of 18 years shall participate;

(B) Refuse to issue the permit when the activity or purpose stated in the application would violate any ordinance of the town or statute of the State, or when the activity or purpose would constitute a clear and present danger to the public health or safety or would hinder or prevent the orderly movement or pedestrian or vehicular traffic on the streets, alleys, or sidewalks;

(C) Specify in the permit whether or not minors below the age of 18 years will be permitted to participate. The Chief shall pass upon whether or not the minors may participate, and shall base his determination upon whether or not the purpose or time or place of the particular activity will be detrimental to or endanger the health, safety or welfare or the minors, or will interfere with their education;

(D) Require that the application for a permit shall specify and the permit shall designate the person or persons in charge of the activity. The person shall be required to accompany the parade, picket line, or group demonstration and shall carry the permit with him at that time. The permit shall not be valid in the possession of any other person;

(E) The permit may set the starting time, duration, speed of travel, and space between persons or vehicles in the parade, picket line, or group demonstration, may prescribe the portions or

areas of streets, alleys, sidewalks, or other public places to be used; and may impose other reasonable requirements as the Chief may prescribe for the control and free movement of pedestrian or vehicular traffic, or for the health, safety and property rights of the participants and the general public.

(F) Among other considerations, consider and find as a requisite to issuance the following:

(1) The activity will not require excessive diversion of police from other necessary duties;

(2) The activity will not interfere with the right of property owners in the area to enjoy peaceful and lawful occupancy and use of their property;

(3) The activity can be conducted without unreasonable interference with normal pedestrian or vehicular traffic in the area, and will not prevent normal police and fire protection to the public, and will not be likely to cause injury to persons or property or to provoke disorderly conduct or to create a public disturbance.
('76 Code, § 6-2023) (Ord. passed 12-6-76)

§ 95.58 CERTAIN ACTIVITIES PROHIBITED.

The following acts or activities, when performed or undertaken in conjunction with or as a part of, any parade, picket line, or group demonstration, are hereby prohibited and declared unlawful:

(A) The carrying on or about the person any firearm, or any weapon or article, including but not limited to blackjacks, nightsticks, or flashlights which by their use might constitute a deadly weapon;

(B) The taking or keeping of any dog or other vicious animal, whether leashed or unleashed.
('76 Code, § 6-2024) (Ord. passed 12-6-76) Penalty, see § 95.99

§ 95.59 REVOCATION OF PERMIT.

The Chief of Police shall revoke any permit granted for a parade, picket line, or group demonstration for any of the following causes:

(A) The violation by any participant of § 95.58 of this chapter;

(B) The failure to comply with the terms and conditions of the permit.
('76 Code, § 6-2025) (Ord. passed 12-6-76)

§ 95.60 INTERFERENCE PROHIBITED.

No person shall hamper, obstruct, impede, or interfere with any parade, picket line, or group demonstration being conducted under authority of a permit duly issued by the Chief of Police.
('76 Code, § 6-2026) (Ord. passed 12-6-76) Penalty, see § 95.99

§ 95.61 ADDITIONAL REGULATIONS APPLICABLE TO PICKETING.

Picket lines and picketing shall be subject to the following additional regulations:

(A) Picketing may be conducted only on the sidewalks reserved for pedestrian movement, and may not be conducted on the portion of a street used primarily for vehicular traffic;

(B) Not more than ten pickets promoting the same objective shall be permitted to use either of the two sidewalks within a single block at any one time;

(C) Pickets may carry written or printed placards or signs not exceeding 2 feet in width and 2 feet in length promoting the objective for which the picketing is done; provided, the words used are not derogatory or defamatory in nature;

(D) Pickets must march in single file and not abreast and must not march closer together than 15 feet, except in passing one another. Pickets shall not be allowed to walk more than 5 feet from the curb line and shall be in continuous motion; and

(E) If pickets promoting different objectives desire to use the same sidewalk for picketing and the use would result in the presence of more than 10 pickets thereon, the Chief of Police shall allot time to each group of pickets for the use of the sidewalk on an equitable basis.
('76 Code, § 6-2027) (Ord. passed 12-6-76)

§ 95.62 EXCEPTIONS.

Sections §§ 95.55 - 95.61 shall not apply to:

(A) Funeral processions;

(B) Any governmental agency acting within the scope of its functions;

(C) Students going to or from school classes or participating in educational or recreational activity where the activity is under the supervision and direction of proper school authorities.
('76 Code, § 6-2028) (Ord. passed 12-6-76)

§ 95.99 PENALTY.

The violation of any provision of this chapter shall constitute a Class 3 misdemeanor, punishable upon conviction by a fine not exceeding $50 or imprisonment not exceeding 30 days, as provided in G.S. § 14-4.
(Ord. passed 12-6-76)

CHAPTER 96: LITTLE TENNESSEE RIVER GREENWAY

Section

96.01 Prohibited activities

§ 96.01 PROHIBITED ACTIVITIES.

(A) *Refuse.* It shall be unlawful for any person, within the area designated as Little Tennessee River Greenway:

(1) To deposit in any toilet, toilet vault or plumbing fixture any substance that could damage or interfere with the operation or maintenance of the fixture;

(2) To possess or leave refuse, debris or litter in an exposed or unsanitary condition;

(3) To place in or near a stream, lake or other waters, any substance which does or may pollute a stream, lake, or other water;

(4) To fail to dispose of all garbage, including any paper, can, bottle, sewage, waste water or material, rubbish, either by removal from the site or area, or by depositing it into receptacles or at places provided for such purposes;

(5) To dump any refuse, debris, trash or litter brought as such from off the Greenway property.

(B) *Animals.* It shall be unlawful for any person:

(1) To bring onto the Greenway property, or possess an animal on said property, other than a seeing eye dog unless it is crated, caged, or restrained by a leash not longer than six feet;

(2) To bring in or possess on Greenway property, a saddle, pack or draft animal.

(C) *Vandalism.* No person shall willfully:

(1) Damage any natural feature or other property of the Greenway;

(2) Remove any natural feature of the Greenway;

(3) Damage or remove any vegetation from the Greenway;

(4) While on the Greenway, use any pesticide except for personal use as an insect repellent or as provided by special use authorization for other minor uses;

(5) Dig, excavate, disturb, injure, destroy, or in any way damage any pre-historic, historic, or archaeological resource, structure, site, artifact or other property along the Greenway;

(6) Kill, injure, or otherwise disturb any bird, mammal, or reptile on the Greenway;

(D) *Commercial activity; firearms.* It shall be unlawful for any person, firm or corporation:

(1) To sell or offer for sale on Greenway property, any merchandise or perform any kind of work activity or service for hire without a special use authorization;

(2) To distribute printed material on Greenway property without special use authorization;

(3) To possess a firearm on the Greenway property;

(4) To discharge a firearm on or within 150 yards of the Greenway;

(5) To place a vehicle or other object on the Greenway in such a manner to create a hazard to the safety of pedestrian or authorized vehicular traffic;

(6) To operate or use any device which produces noise, such as a radio, television, musical instrument, motor or engine in such a manner and at such a time so as to unreasonably disturb Greenway traffic;

(7) To operate or use a public address system on Greenway property, whether fixed, portable or vehicle mounted without special use authorization;

(8) To violate any term or condition of a special use authorization granted by authorized Greenway officials.

(E) *Vehicles.* It shall be unlawful for any person:

(1) To operate a motor vehicle, except for motorized wheel chairs and golf carts, on Greenway property except in parking areas and boat launch areas and unless for maintenance or emergency purposes. Motorized wheel chairs and golf carts, leased on premises shall be permitted for use by the physically handicapped;

(2) To jump from any bridge on the Greenway;

(3) To use a skateboard on Greenway property in an area that has not been specifically designated and marked as permitting the use of skate boards.
(Ord. passed 8-5-02)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. PRIVILEGE LICENSE TAXES

111. ADVERTISING

112. AMUSEMENTS

113. PEDDLERS AND SOLICITORS

114. TAXICABS

115. HEALTH MASSAGE/BODY WORK THERAPISTS

CHAPTER 110: PRIVILEGE LICENSE TAXES

Section

110.01 Definitions
110.02 License tax upon certain trades and business operations
110.03 Unlawful to conduct business without a license
110.04 License taxes shall be for twelve months
110.05 License required for every separate business
110.06 License required for every place of business
110.07 License must be displayed at the place of business
110.08 No abatement of license tax
110.09 Schedule of license taxes

§ 110.01 DEFINITIONS.

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

AGENT. The person having the agency for the manufacturer, producer, or distributor.

BUSINESS. Any business, trade, occupation, profession, avocation or calling of any kind, subject, by the provision of this subchapter, to a license tax.

ENGAGED IN THE BUSINESS. Engaged in the business as owner or operator.

FISCAL YEAR. The period beginning with the 1st day of July and ending with the 30th day of June next following.

PERSON. Any person, firm, partnership, company or corporation.

QUARTER. Any three consecutive months.
('76 Code, § 2-4011)

Statutory references:

Authority to levy privilege license taxes, see G.S. § 160A-211; See also "Schedule B" of the Revenue Laws of 1939 as amended, G.S. §§ 105-33 et seq.

§ 110.02 LICENSE TAX UPON CERTAIN TRADES AND BUSINESS OPERATIONS.

In addition to the tax on property, as otherwise provided for, and under the power and authority conferred in the laws of North Carolina, there shall be levied and collected annually or oftener where provided for, a privilege license tax on trades, professions, business operations, exhibitions, circuses, and all subjects authorized to be licensed, as set out in the following sections and schedule. All licenses shall be a personal privilege and shall not be transferable. Nothing herein contained shall be construed to prevent the Board from imposing from time to time, as they may see fit, the license taxes as are not specifically herein defined, or from increasing or decreasing the amount of any special license tax, or from prohibiting or regulating the business or acts licensed, and all licenses are granted subject to the provisions of existing ordinances or those hereafter enacted.
('76 Code, § 2-4012)

§ 110.03 UNLAWFUL TO CONDUCT BUSINESS WITHOUT A LICENSE.

It shall be unlawful for any person or his agent or servant to engage in or carry on a business in the Town for which there is required a license, without first having paid the license tax and obtained the license. For the purpose of this subchapter the opening of a place of business or offering to sell, followed by a single sale or the doing of any act or thing in furtherance of the business shall be construed to be engaging in or carrying on the business; and each day

that the person, firm or corporation shall engage in or carry on the business as aforesaid, shall be construed to be a separate offense.
('76 Code, § 2-4013)

§ 110.04 LICENSE TAXES SHALL BE FOR TWELVE MONTHS.

All taxes provided for and fixed in the following sections and schedule shall be for 12 months, unless otherwise specified, and shall so remain for 12 months.
('76 Code, § 2-4014)

§ 110.05 LICENSE REQUIRED FOR EVERY SEPARATE BUSINESS.

The payment of any particular tax imposed by this subchapter shall not relieve the person paying the same from the payment of any other tax imposed by this article for any other business he may carry on, unless so provided by the section imposing the tax; it being the intent of this article that license taxes prescribed by various sections or sub-sections of this subchapter applicable to any business shall be cumulative except where otherwise specifically provided. ('76 Code, § 2-4015)

§ 110.06 LICENSE REQUIRED FOR EVERY PLACE OF BUSINESS.

A license issued for the privilege of conducting a business is only valid for the business conducted at the place and by the licensee named therein. Every person doing business in more than one factory, mill, warehouse, or store, stall or stand, or other place of business shall secure a separate license for each place of business, unless the places of business are contiguous to each other, communicate directly with an opening into each other and are operated as a unit. If the business is moved or if the licensee sells to another then a new license is necessary, unless a special permit to continue business under the original license is obtained from the Board.
('76 Code, § 2-4016)

§ 110.07 LICENSE MUST BE DISPLAYED AT THE PLACE OF BUSINESS.

Every license must be kept prominently displayed at the place of business of the licensee named in the license, or, if the licensee has no fixed place of business, the licensee must keep the same wherever the business is being operated and where it can be inspected at any time by the proper municipal official.
('76 Code, § 2-4017)

§ 110.08 NO ABATEMENT OF LICENSE TAX.

No license tax shall be abated nor shall any refund of any part thereof be made, in any case where the licensee discontinues his business before the end of the period for which the license was issued.
('76 Code, § 2-4018)

§ 110.09 SCHEDULE OF LICENSE TAXES.

Taxes shall be levied and collected on the trades, professions, agencies, business operations, and other subjects set out in the schedule of license taxes, hereby made a part hereof, which is on file in the Town Office.
('76 Code, § 2-4019)

CHAPTER 111: ADVERTISING

Section

111.01 Posting of bills on public property prohibited; exceptions
111.02 Posting of bills on private property prohibited; exceptions
111.03 Election materials
111.04 Fairs, carnivals and horse shows

§ 111.01 POSTING OF BILLS ON PUBLIC PROPERTY PROHIBITED; EXCEPTIONS.

It shall be unlawful for any person, firm, or corporation to post, nail, stick, or otherwise affix bills, posters, advertisements, notices or any other printed or graphic matter upon public property in the Town. This subchapter shall not apply to notices, signs, or advertisements required to be posted by law, signs or plates on residential premises giving the name or address of the occupant, mail boxes or newspaper tubes, municipal, county, State and Federal traffic signs, historical markers, monuments or signs erected by public authority, temporary displays as a part of customary holiday decorations, and signs denoting the location of underground utilities.
('76 Code, § 9-5001) Penalty, see § 10.99

§ 111.02 POSTING OF BILLS ON PRIVATE PROPERTY PROHIBITED; EXCEPTIONS.

It shall be unlawful for any person, firm, or corporation to nail, stick, or otherwise affix bills, posters, advertisements, notices or other printed or graphic matter upon private property within the Town without the consent of the owner.
('76 Code, § 9-5002) Penalty, see § 10.99

§ 111.03 ELECTION MATERIALS.

Notwithstanding the above provisions, it shall be unlawful to post or affix printed or graphic materials upon public property in the town for up to 60 days preceding a National, State, or local election or referendum to be held in the town when the materials relate to the candidate or candidates seeking election or the political issue being voted upon. Provided, however, the Chief of Police shall require the giving of a bond by those posting the election-related materials, the amount of the bond to be commensurate with the cost of removing the election materials so posted. If the election-related materials are not removed within 15 days following the scheduled election, the bond shall be retained by the town to defray the costs of removing the election-related posters and materials.
('76 Code, § 9-5003) Penalty, see § 10.99

§ 111.04 FAIRS, CARNIVALS AND HORSE SHOWS.

Notwithstanding the above provisions, it shall be lawful to affix temporary banners or signs advertising the place and date of fairs, carnivals, horse shows and similar events to be observed within the town for a period not to exceed 30 days and after the giving of a bond which the Chief of Police shall set, the amount of the bond to be commensurate with the cost of removing the banners or signs. If the signs or banners are not removed within the 30-day period, the bond shall be retained by the town to defray the costs of removing the banners or signs.
('76 Code, § 9-5004) Penalty, see § 10.99

CHAPTER 112: AMUSEMENTS

Section

112.01 License required
112.02 Application for license
112.03 When license refused
112.04 Form and content of license
112.05 Certain prohibitions to be observed by licensee and employees
112.06 Rules for operation of pool rooms
112.07 Licensee responsible
112.08 Revocation of licenses

§ 112.01 LICENSE REQUIRED.

No person shall maintain or operate any pool or billiard table, bowling alley, or other table or alley for any game or play for which a charge is made, either directly or indirectly, unless he shall first have secured a license from the Board to do so. The license shall expire on June 30 each year, and shall not be transferable.
('76 Code, § 6-1061) Penalty, see § 10.99
Statutory reference:
Authority to regulate amusements, see G.S. § 160A-181

§ 112.02 APPLICATION FOR LICENSE.

Applications for the license shall be made upon forms provided by the Town Clerk, and shall contain an information necessary for the Board to act intelligently upon the applications.
('76 Code, § 6-1062) Penalty, see § 10.99

§ 112.03 WHEN LICENSE REFUSED.

The Board shall not issue the license to any person:

(A) Who has been convicted of unlawfully selling intoxicating liquors or narcotic drugs;

(B) Who is not a citizen and resident of North Carolina;

(C) Who is of immoral character;

(D) Who is a habitual user of intoxicating liquor or narcotic drugs.
('76 Code, § 6-1063)

§ 112.04 FORM AND CONTENT OF LICENSE.

Every license issued pursuant to this subchapter shall specify the premises for which it is issued, the number of tables or alleys to be operated thereunder, the name of the owner or operator, and the dates upon which the license begins and shall expire. The license shall be posted in a prominent place on the premises at all times.
('76 Code, § 6-1064)

§ 112.05 CERTAIN PROHIBITIONS TO BE OBSERVED BY LICENSEE AND EMPLOYEES.

Licensees under this subchapter shall not, and neither shall their employees:

(A) Suffer or permit any gambling on the licensed premises at any time; nor the sale or use of any racing, football, or other parlay cards or gambling boards.

(B) Suffer or permit the licensed premises to become disorderly; or permit any profane, obscene, or indecent language thereon.

(C) Suffer or permit any intoxicating liquors or narcotic drugs to be sold or kept or consumed on the licensed premises.

(D) Suffer or permit any person under the age of 18 years to enter or remain upon the licensed premises, unless the person be accompanied by his parent or guardian, or have notarized permission therefrom. (Ord. passed 8-2-65)

(E) Employ in carrying on the business any person who has been convicted of unlawfully selling intoxicating liquors or narcotic drugs.

(F) Suffer or permit any keeley board, keno board, or any other board or device to be attached to or placed upon any pool or billiard tables.
('76 Code, § 6-1065)

§ 112.06 RULES FOR OPERATION OF POOL ROOMS.

The following rules shall be observed by all operators of pool rooms within the town:

(A) All pool rooms shall close not later than 1:00 a.m. each morning, Monday through Friday and midnight on Saturdays and 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.

(B) No play on any table shall be allowed during the times when pool rooms are required by this subchapter to remain closed.

(C) Pool rooms shall remain closed on Sundays.

(D) All pool rooms shall be operated only on the ground floor of a building, and plate glass windows shall be in those parts of the building facing any street, so that a clear view inside may be had from the street.

(E) No screens, curtains, blinds, partitions, or other obstructions shall be placed between the entrance to the room where pool is played and the rear wall of the room. A clear view of the interior from the entrance to the rear of the room must be maintained at all times.

(F) No partitions forming rooms, stalls, or other enclosures where the public congregate shall be permitted. Provided, this shall not be construed so as to prohibit the maintenance of closets used exclusively for storage purposes, or of toilets.

(G) There shall not be permitted or maintained any open or secret connections through doors, windows, trap doors, hidden doors, panels, stairways, or other devices with any place where gambling is conducted or where persons meet or congregate for immoral purposes.

(H) All pool rooms must be on a street rather than in an alley.
('76 Code, § 6-1066) (Ord. passed 6-30-52)

§ 112.07 LICENSEE RESPONSIBLE.

The acts and conduct of the agents and employees of the licensee in the conduct of the business shall be deemed to be the acts and conduct of the licensee.
('76 Code, § 6-1067)

§ 112.08 REVOCATION OF LICENSES.

A second conviction of a licensee, or his agent or employee, for any violation of any provision of this article shall by operation of law constitute an automatic revocation of the license of the licensee. In addition, the Board may at any time, for cause, and after a hearing, of which the licensee shall be given the reasonable notice as the Board may direct, revoke any license issued pursuant to this subchapter.
('76 Code, § 6-1068)

CHAPTER 113: PEDDLERS AND SOLICITORS

Section

113.01 Definitions
113.02 Registration required
113.03 Badge
113.04 Exceptions
113.05 Business and industrial sections
113.06 Selling from vehicles

§ 113.01 DEFINITIONS.

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

PEDDLER. Any person who transports goods from place to place and sells or offers for sale the goods, or who, without travelling from place to place, sells or offers for sale any goods from any vehicle or device; provided, that any person who separates the acts of sale and delivery for the purpose of evading the provisions of this article shall be deemed a peddler.

SOLICITOR. Any person who travels from place to place taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance, and any person who uses or occupies any building or premises for the sole purpose of taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance.

TRANSIENT VENDOR. Any person who engages in a temporary business of selling and delivering goods and who, for this purpose, uses or occupies any building or premises; provided, that no person shall be relieved from complying with the provisions of this subchapter merely by conducting a transient business in association with any permanently established merchants.
('76 Code, § 6-1071)

Statutory reference:

Authority to regulate solicitations, itinerant merchants, and begging, see G.S. §§ 160A-178, 179

§ 113.02 REGISTRATION REQUIRED.

Each and every person doing business in the town as a peddler, solicitor or transient vendor shall file with the Town Clerk, on a form to be provided for the purpose, a statement setting forth the following information:

(A) Name and address of individual filing statement;

(B) Name and address of principal or employer if individual is an agent or employee;

(C) Credentials showing relationship of agent or employee;

(D) Description of individual filing statement including height, weight, sex, age, color and distinguishing characteristics, if any;

(E) The goods to be sold or offered for sale, or the type of services to be rendered;

(F) The period of time during which the business will be carried on in the town;

(G) Description of automobile or other vehicle to be used in the business, including the make, model, body style, color and license number.
('76 Code, § 6-1072)

§ 113.03 BADGE.

The Town Clerk shall issue to each person filing the statement required by § 113.02, a badge substantially as follows:

19__ Town of_____, N.C. No.__

SOLICITOR'S BADGE

____(Name)____ has registered with the Town Clerk as required by Ordinance.

____(Date)____

_____
Town Clerk

During the time the person is engaged in soliciting, the badge shall be worn on the front of his outer garment in a manner as to be conspicuous.
('76 Code, § 6-1073)

§ 113.04 EXCEPTIONS.

The provisions of this chapter shall not apply to the sale or solicitation of farm or dairy products by the producer or to organizations or representatives of organizations organized and operated exclusively for educational, benevolent, religious, fraternal, charitable or civic purposes and not operating for profit and where the solicitation or sales are made without remuneration to the solicitor.
('76 Code, § 6-1074)

§ 113.05 BUSINESS AND INDUSTRIAL SECTIONS.

Peddling and soliciting upon any street or within any area shall be permitted provided the privilege license tax has been paid to the town by the peddler or solicitor, and provided the peddler or solicitor has with him at all times a permit issued by the Clerk of the town.
('76 Code, § 6-1075)

§ 113.06 SELLING FROM VEHICLES.

It shall be unlawful for any person, firm or corporation to peddle, sell, or offer to sell, from trucks, wagons, or any other vehicle, or in any manner or place, except in a regularly established place of business, any fruits, vegetables, products, livestock, meats, or merchandise on any of the streets in the town. This section shall not apply to Macon County farmers who grow and offer to sell their own vegetables and fruit, livestock, or meats but it shall be unlawful for them to park on Main Street from the Post Office to Wachovia Bank, or on Phillips Street from its intersection with Main Street to its intersection with Palmer Street, or on Iotla Street from its intersection with Main Street to its intersection with Church Street, or on the public square for more than one hour.
('76 Code, § 6-1076) Penalty, see § 10.99

CHAPTER 114: TAXICABS

Section

114.01 Definitions
114.02 Unlawful to operate without certificate
114.03 Application required
114.04 Board issues certificates
114.05 Duration of certificate
114.06 Determination of convenience and necessity
114.07 Publication
114.08 Burden of proof
114.09 Failure to begin operations
114.10 Transfer
114.11 Revocation of certificate
114.12 Substitution of vehicles
114.13 Certificate required for each vehicle

§ 114.01 DEFINITIONS.

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

PERSON. It shall mean and include both singular and plural, and shall also mean and include persons, individuals, firms, corporations, partnerships and associations.

TAXICAB. It shall be defined as any motor vehicle seating nine or fewer passengers, operated upon any street or highway on call or on demand, accepting or soliciting passengers indiscriminately for hire between points along streets and highways as may be directed by the passenger or passengers so being transported, and shall not include motor vehicles or motor vehicle carriers as defined in subsections 17 and 18 of Section 62-3 of the General Statutes of North Carolina.
('76 Code, § 6-1001)
Statutory reference:
Authority to regulate taxicabs, see G.S. § 160A-304

§ 114.02 UNLAWFUL TO OPERATE WITHOUT CERTIFICATE.

It shall be unlawful for any person to operate a taxicab upon or over the streets of the town without first having applied for and secured from the Board a certificate of convenience and necessity as hereinafter set forth.
('76 Code, § 6-1002) Penalty, see § 10.99

§ 114.03 APPLICATION REQUIRED.

Every person desiring to operate a taxicab upon and over the streets of the town shall file on forms supplied by the Clerk an application for certificate of convenience and necessity.
('76 Code, § 6-1003)

§ 114.04 BOARD ISSUES CERTIFICATES.

The Board shall have power and it will be its duty to order certain certificates or to issue certificates for partial exercise of the rights granted only the certificate under the terms and conditions as in its judgment the public convenience and necessity may required.
('76 Code, § 6-1004)

§ 114.05 DURATION OF CERTIFICATE.

A certificate shall constitute a franchise from the town for the operation of taxicabs within the town subject to the provisions of this subchapter for one year, unless a shorter period of time is specified in the certificate. Applications for renewal shall be filed annually and hearing conducted as herein provided.
('76 Code, § 6-1005)

§ 114.06 DETERMINATION OF CONVENIENCE AND NECESSITY.

(A) In determining whether the public convenience and necessity require the franchising of

the taxicab or taxicabs, the Board shall, among other things, take into consideration the following factors:

(1) Whether or not the public convenience and necessity require the proposed or additional taxicab service within the town.

(2) The financial responsibility of the applicant and the likelihood of the proposed service being permanent, responsible and satisfactory.

(3) The number and condition of equipment.

(4) The schedule of proposed rates, if required by the Board to be charged.

(5) The number of taxicabs now operated and the demand for increased service, if any, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved and whether or not adequate provision has been made for off-street parking of the taxicabs.

(6) The experience of applicant in the taxicab business.

(7) The other relative facts as may be deemed necessary and advisable.

(B) Before making any decision with respect to the issuance of a certificate of convenience and necessity. The Board or a committee thereof, shall make a full and complete investigation of all facts, if it so desires, subpoena witnesses and utilize the services of the Chief of Police or any other officer or employee of the Town. ('76 Code, § 6-1006)

§ 114.07 PUBLICATION.

The Clerk shall cause to be published, at least once in a newspaper with general circulation, a notice setting forth the name of the applicant and requesting any information as to why the applicant should or should not be granted a certificate of convenience and necessity. The cost of the publication shall be paid by the applicant.
('76 Code, § 6-1007)

§ 114.08 BURDEN OF PROOF.

The burden of proof shall be upon the applicant to establish the existence of public convenience and necessity for the operation of the taxicab or taxicabs specified in his application, and all other facts required for the granting of a certificate.
('76 Code, § 6-1008)

§ 114.09 FAILURE TO BEGIN OPERATIONS.

If a certificate is granted to an applicant, and the applicant shall fail, in accordance with the provisions of the certificate, to begin operations within 60 days after the date of the certificate, then the certificate shall become null and void, and no refund of any amount paid by the applicant will be made by the town.
('76 Code, § 6-1009)

§ 114.10 TRANSFER.

A certificate is not transferable without the consent and approval of the Board. Applications for a permit to transfer shall be filed in the same manner as an application for a certificate of convenience and necessity. The proceedings upon the application for transfer shall be the same as those prescribed for the issuance of a certificate, except that the question of public convenience and necessity need not be proved.
('76 Code, § 6-1010)

§ 114.11 REVOCATION OF CERTIFICATE.

(A) The Board may at any time after a public hearing revoke any certificate issued by authority of this article for any one, or more, of the following causes:

(1) Failure to operate the taxicab specified in the certificate in the manner as to serve the public adequately and efficiently.

(2) Failure to maintain motor equipment in good repair.

(3) Failure to carry liability insurance or bond as required by law.

(4) Failure to pay to the town taxes or license fees imposed upon the taxicabs.

(5) Repeated and persistent violation by the taxicab drivers of traffic and safety ordinances, or state laws relating to alcoholic beverages or prostitution.

(6) Failure to report accidents.

(7) Willful failure to comply with any provision of this article or ordinances or state laws relating to the operation of taxicabs, whether the ordinances and laws be now in force or hereafter enacted into ordinances and into laws.

(B) No certificate shall be revoked until the owner has had at least five days' notice by personal service or registered mail of the charges against him, 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 herein, the Board shall have the power to revoke the certificate, or to condition a revocation upon compliance of its order within any time fixed by it.
('76 Code, § 6-1011)

§ 114.12 SUBSTITUTION OF VEHICLES.

The person to whom a certificate has been issued may, by proper endorsement thereon by the Clerk substitute another vehicle, or other vehicles, for the vehicle or vehicles for which certificate was granted. In the instance, the liability insurance or bonds shall also be transferred to the substitute vehicle or vehicles.
('76 Code, § 6-1012)

§ 114.13 CERTIFICATE REQUIRED FOR EACH VEHICLE.

To operate more than one taxicab, a person must obtain a certificate of convenience and necessity for each vehicle to be so operated.
('76 Code, § 6-1013)

CHAPTER 115: HEALTH MASSAGE/BODY WORK THERAPISTS

Section

115.01 Purpose
115.02 Definitions
115.03 Licensing of health massage/body therapists
115.04 Only licensed health massage/body work therapists permitted to practice

115.99 Penalty

§ 115.01 PURPOSE.

(A) In the interest of public health, safety and welfare, and to protect the public from unqualified practitioners and unethical businesses, the following privilege license provisions and regulations are hereby adopted.

(B) The provisions of this chapter shall not apply to:

(1) Physicians, surgeons, chiropractors, osteopaths, physical therapists or podiatrists duly licensed to practice in this state, and registered or licensed practical nurses governed by the North Carolina Nursing Practices Act;

(2) Athletic directors or trainers who are affiliated with an approved educational institutional or professional sports team, and whose work is limited to athletic team members;

(3) Licensed cosmetologists, barbers or beauty culturists who do not offer massage treatments other than those customarily given in such establishments, solely for the purpose of beautification.
(Ord. passed 7-8-96)

§ 115.02 DEFINITIONS.

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

HEALTH MASSAGE/BODY WORK THERAPIST. Any person, male or female, engaged in the practice of health massage/body work therapy who: has graduated from an institute or school of massage therapy licensed under a state licensing requirement, is certified by the American Massage Therapy Association or the National Certification Board for Therapeutic Massage and Body Work, or meets the criteria of § 115.03 herein below.

HEALTH MASSAGE/BODY WORK THERAPY. Systems of activity applied to the superficial or deep tissues (muscles, tendons, ligaments, connective tissue, skin) of the body by means of applying pressure with the hands, feet, arms, or elbows for therapeutic and/or relaxing purposes. Soft tissue health massage/body work practices are designed to promote general relaxation, improve flexibility and pliability of the soft tissues, or relieve stress and muscle hypertension; and to enhance a general sense of well-being in the client. The term ***THERAPY*** does not include the diagnosis or treatment of illness or disease; medical procedures; or the use of modalities for which a license to practice medicine, chiropractic, physical therapy, acupuncture or podiatry is required by law.

HEALTH MASSAGE/BODY WORK THERAPY ESTABLISHMENT. Any business or establishment wherein health massage/body work therapy is performed solely by health massage/body work therapists.
(Ord. passed 7-8-96)

§ 115.03 LICENSING OF HEALTH MASSAGE/BODY WORK THERAPISTS.

(A) No person shall perform health massage/body work therapy as herein defined unless such a person shall have first applied for and received a privilege license from the Town Tax Collector. Such privilege license shall be issued only to those persons meeting the definition of health massage/body work therapist provided in § 115.02 above.

(B) Each application for the license required by this section shall be upon a form approved by and filed with the Tax Collector. Such application shall include the following information:

(1) The name and business address of the applicant; and

(2) A diploma or certificate of graduation from an institute or school of health massage/body work therapy whose curriculum is licensed under a state licensing requirement, a valid document of certification from the American Massage Therapy Association for Therapeutic Massage and Body Work, or the information required in division (D) below.

(C) Each applicant for a license issued pursuant to this section shall pay the privilege license tax provided in Chapter 110 of this code, a schedule of which is on file in the Town Office.

(D) Any person who has been engaged in the business of health massage/body work therapy for at least three years prior to application shall be deemed a health massage/body work therapist under this article provided that:

(1) The applicant submit verification and documentation of at least 500 hours of experience in the practice of health massage/body work therapy to the authority issuing the license;

(2) Three letters of reference are provided from state-licensed health care professionals or health massage/body work therapists licensed under this chapter, attesting to the applicant's sound moral character, professional qualifications and competence;

(3) The applicant pays any application and license taxes required under this code; and

(4) The appropriate application required under division (B) above is completed.
(Ord. passed 7-8-96) Penalty, see § 115.99

§ 115.04 ONLY LICENSED HEALTH MASSAGE/BODY WORK THERAPISTS PERMITTED TO PRACTICE.

(A) No person or business shall permit anyone to perform health massage/body work therapy upon the premises operated by that person or business, unless the individual performing health massage/body work therapy has been issued a license as required by this chapter.

(B) Every health massage/body work therapist shall post the license required by this chapter in his or her work area at all times.
(Ord. passed 7-8-96) Penalty, see § 115.99

§ 115.99 PENALTY.

A violation of this chapter shall constitute a misdemeanor punishable by a fine not to exceed $50 or a prison sentence not more than 30 days.
(Ord. passed 7-8-96)

TITLE XIII: GENERAL OFFENSES

Chapter

130. OFFENSES AGAINST TOWN REGULATIONS

CHAPTER 130: OFFENSES AGAINST TOWN REGULATIONS

Section

130.01 Public consumption of alcoholic beverages
130.02 Injuring shade trees
130.03 Injuring telephone poles
130.04 Discharging firearms
130.05 Carrying concealed weapons on certain municipal property
130.06 Tobacco use prohibited

130.99 Penalty

§ 130.01 PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES.

No person shall consume malt beverages or unfortified wine, as defined by G.S. § 18B-101, on property owned or occupied by the town, including but not limited to public streets, boulevards, alleys, rights-of-way, sidewalks and parks.
('76 Code, § 8-1001) (Ord. passed 5-6-68; Am. Ord. passed 2-2-70; Am. Ord. passed 10-3-83) Penalty, see § 130.99

§ 130.02 INJURING SHADE TREES.

No person shall willfully or negligently injure or cause to be injured any shade tree on public property of the town.
('76 Code, § 8-1002) Penalty, see § 130.99

§ 130.03 INJURING TELEPHONE POLES.

It shall be unlawful for any person, firm, or corporation to drive any nail, tack or other metal of any kind or nature into any telephone, telegraph, or electric light pole, or in any way deface any telephone, telegraph, or electric light pole within the corporate limits of the town.
('76 Code, § 8-1003) (Ord. passed 2-7-27) Penalty, see § 130.99

§ 130.04 DISCHARGING FIREARMS.

It shall be unlawful for any person to discharge any gun, pistol, or other weapon within the corporate limits except a peace officer in the performance of his duty. It shall be unlawful for any person to shoot an air gun or sling-shot within 100 yards of any street.
('76 Code, § 8-6003) Penalty, see § 130.99

§ 130.05 CARRYING CONCEALED WEAPONS ON CERTAIN MUNICIPAL PROPERTY.

(A) Posting of Signs Required. The Chief of Police is hereby authorized and instructed to post conspicuous signage at appropriate locations on or within each park and each building or portion of a building owned, leased as lessee, operated, occupied, managed or controlled by the town, as well as the appurtenant premises to such buildings, indicating that carrying a concealed handgun is prohibited therein.

(B) Location of Signs. Signs on buildings shall be visibly posted on the exterior of each entrance by which the general public can access the building. The Chief of Police shall exercise discretion in determining the number and appropriate location of signs to be placed on or within appurtenant premises and parks.

(C) Effective Date. This section shall be effective on and after December 31, 1995.
(Ord. passed 1-2-96) Penalty, see § 130.99

§ 130.06 TOBACCO USE PROHIBITED.

(A) *Tobacco use prohibited in municipal buildings.* It shall be unlawful for any person to use tobacco, of any kind or description, in any building or facility or portion of a building or facility now or hereafter owned, leased, operated, occupied, managed or controlled by the town.

(B) *Tobacco use prohibited in municipal vehicles.* It shall be unlawful for any person to use tobacco, of any kind or description, in any vehicle now owned or leased, or hereafter owned or leased by the town.

(C) *Notice required.* Clear and conspicuous signs shall be posted in every municipal building or facility, in a position clearly visible on entry to the building. "No Smoking" or other signs stating this policy shall be used and shall have letters of not less than one inch in height, or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a circle with a bar across it).
(Ord. passed 9–8-09)

§ 130.99 PENALTY.

Violation of this chapter shall be a misdemeanor punishable on conviction by a fine not exceeding $50 or by imprisonment not exceeding 30 days.
(Ord. passed 10-3-83)

TITLE XV: LAND USAGE

Chapter

150. FIRE LIMITS

151. FLOODWAYS

152. UNIFIED DEVELOPMENT

153. RESERVED

154. WIRELESS TELECOMMUNICATIONS FACILITIES

155. SIGN REGULATIONS

156. SEXUALLY ORIENTED BUSINESSES

CHAPTER 150: FIRE LIMITS

Section

150.01 Limits established
150.02 Construction to conform with state regulations
150.03 Enforcement by Building Inspector

§ 150.01 LIMITS ESTABLISHED.

The primary fire limits of the town are hereby established as follows:

> Beginning at point intersecting Harrison Avenue and Church Street. Thence N71-08E with centerline Church Street to intersection with Iotla Street and continuing whole distance 2,032 feet to point centerline River View Street. Thence SE direction crossing Main Street to point centerline Palmer Street. Thence SW direction meandering with centerline Palmer Street to point intersecting Palmer Street and Porter Street. Thence NW direction with centerline Porter Street to intersection with West Main Street. Thence NE direction with centerline West Main Street to point intersecting West Main Street and Harrison Avenue. Thence NW direction with centerline Harrison Avenue to point of Beginning; the limits include the principal business portion of the town.

('76 Code, § 3-2021)

§ 150.02 CONSTRUCTION TO CONFORM WITH STATE REGULATIONS.

(A) Within the primary fire limits as described in § 150.01, all construction, repairs or alterations of any building or structure shall conform with all regulations for fire zones as set forth in the North Carolina State Building Code, most current edition, and to the provisions of G.S. § 160A-436.

(B) A copy of the North Carolina State Building Code shall be kept on file in the office of the Clerk.

(C) Pursuant to G.S. § 160A-436, it shall be unlawful without written permission from the Board for any person or corporation to erect, alter or repair any wooden building within the fire limits. For each day in which a person or corporation shall erect, alter or repair the building it shall constitute a new and separate violation of this section.

(D) Any person who shall assist in constructing or repairing any building prohibited in this section shall be subject to a penalty for each day or part thereof during which he shall so assist.
('76 Code, § 3-2021)

§ 150.03 ENFORCEMENT BY BUILDING INSPECTOR.

It shall be the duty of the Building Inspector to enforce the requirements of this section.
('76 Code, § 3-2021) (Ord. passed 12-2-74) Penalty, see § 10.99

Statutory references:

Establishment of, and restrictions within, primary fire limits, G.S. §§ 160A-435, 436

CHAPTER 151: FLOODWAYS

Section

151.01 Authority
151.02 Purpose
151.03 Definitions
151.04 Floodway uses
151.05 Artificial obstructions prohibited
151.06 Existing artificial obstructions
151.07 Delineation of floodway and water surface levels
151.08 Permits for artificial obstructions in a floodway
151.09 Violations and penalties
151.10 Abrogation and greater restrictions

§ 151.01 AUTHORITY.

The General Assembly of the State has enacted as G.S. §§ 143-215.51 et seq. a Floodway Regulation Law which empowers local governments to establish floodways and to regulate artificial obstructions in floodways.
('76 Code, § 9-6001) (Ord. passed 12-6-71)

§ 151.02 PURPOSE.

The purpose of this chapter is to specify a means for regulation of artificial obstructions in floodways. It is hereby declared that the channel and a portion of the floodplain of certain streams is designated as a floodway, within which artificial obstructions may not be placed except with the permission of the Board. The purpose of designating these areas as a floodway is to help control and minimize the extent of floods by preventing obstructions which inhibit water flow and increase flood height and damage, and thereby to prevent or minimize loss of life, injuries, property damage, and other losses, both public and private in flood hazards areas, and to promote the public health, safety, and welfare of the citizens of Franklin in flood hazard areas.
('76 Code, § 9-6002) (Ord. passed 12-6-71)

§ 151.03 DEFINITIONS.

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

ARTIFICIAL OBSTRUCTION. Any obstruction which is not a natural obstruction, including any which, while not a significant obstruction in itself, is capable of accumulating debris and thereby reducing the flood-carrying capacity of the stream.

FLOOD PROTECTION ELEVATION. The elevation below which no damageable portion of a structure may be constructed outside of the floodway.

FLOODWAY. That portion of the channel and floodplain of a stream designated to provide passage for the 100-year flood, without increasing the elevation of that flood at any point by more than one foot. The boundaries of the floodway are shown on the maps entitled "Proposed Floodway, Little Tennessee River, Vicinity of Franklin, North Carolina," May 1969, and "Proposed Floodway, Cullasaja River and Cartoogechaye Creek, Vicinity of Franklin, North Carolina," May 1969. The above-mentioned maps shall be considered the Official Floodway Maps of the Town.

NATURAL OBSTRUCTION. Any rock, tree, gravel, or analogous natural matter that is an obstruction and has been located within the floodway by a nonhuman cause.

OFFICIAL FLOODWAY MAPS. The boundaries of the floodway are shown on maps entitled "Proposed Floodway, Little Tennessee River, Vicinity of Franklin, North Carolina," May 1969, and "Proposed Floodway, Cullasaja River and Cartoogechaye Creek, Vicinity of Franklin, North Carolina," May 1969. The maps shall be considered the Official Floodway Maps of the town.

OFFICIAL WATER SURFACE PROFILES. The elevation of the 100-year flood is shown on the charts entitled "High Water Profiles, Little Tennessee River, Vicinity of Franklin, North Carolina" and "High Water Profiles, Cullasaja River and Cartoogechaye Creek,

Vicinity of Franklin, North Carolina" prepared by the Tennessee Valley Authority and dated June 1969.

ONE-HUNDRED YEAR FLOOD. A flood having an average frequency of occurrence of once in 100 years, although the flood may occur in any year. It is based on statistical analyses of streamflow records available for the watershed and analyses of rainfall and runoff characteristics in the general region of the watershed. The elevation of the 100-year flood is shown on the charts entitled "High Water Profiles, Little Tennessee River, Vicinity of Franklin, North Carolina" and "High Water Profiles, Cullasaja River and Cartoogechaye Creek, Vicinity of Franklin, North Carolina" prepared by the Tennessee Valley Authority and dated June 1969.

STREAM. A water course that collects surface runoff from an area of one square mile or greater.
('76 Code, § 9-6003) (Ord. passed 12-6-71)

§ 151.04 FLOODWAY USES.

The following uses may be made of floodways as a matter of right without a permit:

(A) General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife and related uses;

(B) Loading areas, parking areas, rotary wing aircraft ports, and other similar industrial-commercial uses;

(C) Lawns, gardens, parking, play areas, and other similar uses;

(D) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, swimming pools, hiking or horseback riding trails, open space and other similar private and public recreational uses;

(E) Streets, bridges, overhead utility lines, creek and storm drainage facilities, sewage or waste treatment plant outlets, water supply intake structures, and other similar public, community or utility uses;

(F) Temporary facilities (for a specified number of days), including displays, circuses, carnivals, or similar transient amusement enterprises;

(G) Boat docks, ramps, piers, or similar structures.
('76 Code, § 9-6004) (Ord. passed 12-6-71)

§ 151.05 ARTIFICIAL OBSTRUCTIONS PROHIBITED.

The placement of any artificial obstruction in any floodway established by this chapter is hereby prohibited, unless a permit has been obtained for the artificial obstruction from the Board. No damageable portion of a structure located outside the floodway in the floodplain may be below the flood protection elevation, as defined in § 151.03 above.
('76 Code, § 9-6005) (Ord. passed 12-6-71)

§ 151.06 EXISTING ARTIFICIAL OBSTRUCTIONS.

Artificial obstructions existing in a floodway on the effective date of this chapter shall not be considered to be in violation of the chapter. However, they may not be enlarged or replaced in part or in whole without a permit, as provided by this chapter by § 151.08 below.
('76 Code, § 9-6006) (Ord. passed 12-6-71)

§ 151.07 DELINEATION OF FLOODWAY AND WATER SURFACE LEVELS.

(A) The Town Clerk shall maintain in the town office of Franklin an Official Floodway Map and an Official Water Surface Profile for all reaches of streams for which a floodway is established by this chapter. The Official Floodway Map shall show the limits of the floodway capable of passing the 100-year flood without increasing the natural 100-year floodwater surface level by more than 1 foot. The Official Water Surface Profile will show the water level of the natural 100-year flood, at all points along the length of the floodway, and this level at any point will be the flood protection elevation for purposes of enforcement of § 151.05 above. Any changes made in the Official Floodway Map or the Official Water Surface Profile will follow the procedure specified by G.S. § 143-215.56 (c). However, interpretations may be made by the Board as described below.

(B) The limits of the floodway shall be determined by scaling distances on the Official Floodway Map. Where interpretation is needed as to the exact location of the limits of the floodway shown on the Official Floodway Map, as for example where there appears to be a conflict between a mapped

floodway limit and actual field conditions, the Board shall make the necessary interpretation. The flood protection elevation for the point in question, as shown on the Official Water Surface Profile, shall be the governing factor in locating the floodway limit on the land. The person contesting the floodway limit shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.
('76 Code, § 9-6007) (Ord. passed 12-6-71)

§ 151.08 PERMITS FOR ARTIFICIAL OBSTRUCTIONS IN A FLOODWAY.

(A) A permit for the placement of an artificial obstruction in a floodway, or for enlarging or replacing an existing artificial obstruction, may be issued by the Board, as noted above. The determination to issue a permit will be based on consideration of the effects of the artificial obstruction in a floodway in creating danger to life and property:

(1) By water which may be backed up or diverted by the obstructions;

(2) By the danger that the obstruction will be swept downstream to cause injury or damage to others;

(3) By injury or damage at the site of the obstruction itself.

(B) For this purpose, anticipated development in the foreseeable future which may be adversely affected by the obstruction may be taken into account, as well as existing development.

(C) The granting of approval of any obstruction shall not constitute a representation, guarantee, or warranty of any kind or nature by the town or by an officer or employee thereof of the practicability or safety of any obstruction or other plan proposed and shall create no liability upon or a cause of action against the public body, officer or employee for any damage that may result pursuant thereto.

(D) Every final decision granting or denying a permit under this chapter shall be subject to review by the Superior Court of Macon County, with the right of jury trial at the election of the party seeking review. The time and manner of election of a jury trial shall be governed by G.S. § 1A-1, Rule 38(b).
('76 Code, § 9-6008) (Ord. passed 12-6-71)

§ 151.09 VIOLATIONS AND PENALTIES.

(A) Any violation of this chapter, or of the provisions of any permit issued under the authority of this chapter, shall constitute a misdemeanor.

(B) Failure to remove any artificial obstruction, or enlargement or replacement thereof, which violates this chapter, shall constitute a separate violation of the chapter for each ten days that the failure continues after written notice from the Board.
('76 Code, § 9-6009) (Ord. passed 12-6-71)

§ 151.10 ABROGATION AND GREATER RESTRICTIONS.

(A) No permit for the construction of any structure to be located within a floodway shall be granted unless the applicant has first obtained the permit required by this chapter.

(B) It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.
('76 Code, § 9-6010) (Ord. passed 12-6-71)

CHAPTER 152: UNIFIED DEVELOPMENT

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GENERAL PROVISIONS

§ 152.001 SHORT TITLE.

This chapter shall be known and may be cited as the Franklin Unified Development Chapter.
(Ord. passed 10-1-07)

§ 152.002 AUTHORITY.

This chapter is adopted pursuant to the authority contained in the town charter as well as the provisions of G.S. Ch.160A, Art.21, Ch.143, Part 6, and Ch.113A, Art. 4.
(Ord. passed 10-1-07)

§ 152.003 JURISDICTION.

This chapter shall be effective throughout the town's planning jurisdiction. The town's planning jurisdiction comprises the area within the corporate boundaries of the town as well as the town's area of extraterritorial jurisdiction as such may exist at any time.
(Ord. passed 10-1-07)

§ 152.004 RELATIONSHIP TO EXISTING ZONING AND SUBDIVISION ORDINANCES.

To the extent that the provisions of this chapter are the same in substance as the previously adopted provisions that they replace in the town's zoning ordinance or subdivision ordinance, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this chapter merely by the repeal of the zoning ordinance.
(Ord. passed 10-1-07)

§ 152.005 RELATIONSHIP TO PRINCIPLES OF GROWTH.

It is the intention of the Board that this chapter implement the planning policies adopted by the Board for the town and its extraterritorial planning area, as reflected in the principles of growth and other planning documents.
(Ord. passed 10-1-07)

§ 152.006 NO USE OF LAND OR BUILDINGS EXCEPT IN CONFORMITY WITH CHAPTER PROVISIONS.

Subject to §§ 152.150 through 152.154, below, concerning nonconformities, no person may use, occupy, or sell any land or buildings or authorize or permit the use, or sale of land or buildings under his or her control except in accordance with all of the applicable provisions of this chapter. For purposes of this section, the "use" or "occupation" of a building or land relates to anything and everything that is done to, on, or in that building or land.
(Ord. passed 10-1-07)

§ 152.007 NO BOUNDARY LINE ADJUSTMENTS EXCEPT IN CONFORMITY WITH CHAPTER PROVISIONS.

No boundary of any lot may be adjusted, whether by subdivision, combination or recombination of previously platted lots, boundary line agreement, or any other legal method, except in conformance with the provisions of this chapter. To assure that a proposed boundary line adjustment conforms to the provisions of this chapter, including, but not limited to, lot sizes, lot frontages, and building setbacks, the proposed adjustment shall be submitted to the Land Use Administrator for review and approval prior to execution. The plan, plat, or survey depicting the proposed boundary line adjustment shall contain the following certificate:

Zoning Certificate of Approval

The proposed boundary line adjustment depicted herein is in conformance with the requirements of the Land Use Ordinance of the Town of Franklin and is hereby approved.

Date_____ Land Use Administrator_____
(Ord. passed 10-1-07)

§ 152.008 FEES.

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, conditional use permits, special use permits, subdivision plat approval, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be as set forth in the town's budget or as established by resolution of the Board filed in the office of the Town Clerk. Fees established in accordance with this section shall be paid upon submission of a signed application or notice of appeal.
(Ord. passed 10-1-07)

§ 152.009 ZONING MAP AND DISTRICTS.

The boundaries of the zoning districts are shown upon the map adopted by the Town Aldermen designated as the Zoning Map. The Zoning Map and all notations, references and other information shown thereon are hereby declared to be a part of this chapter and shall have the same force and effect as if the Zoning Map and all notations, references and other information shown thereon were fully set forth and described herein. This map has been rendered digitally, and this digitally-rendered map shall constitute the Official Zoning Map of the Town of Franklin. It shall be the duty of the Land Use Administrator to maintain the digitally-rendered map and to faithfully modify it in accordance with map amendments which may be adopted by the Board of Aldermen from time to time. In maintaining the digitally-rendered zoning map, the Land Use Administrator is authorized to make minor adjustments to the map where to do so would cause zoning boundaries to match property lines, streets, streams, or other zoning boundaries, or where circumstances otherwise make it clear that such adjustment fulfills the intent of previous zoning map amendments.

(A) *Map interpretation.* The following rules shall apply in the interpretation of district boundaries on the zoning map:

(1) Boundaries shown appearing to follow the centerlines of streets, highways, streams, or alleys shall follow such centerlines.

(2) Boundaries shown appearing to follow lot lines, rights-of-way, or easements shall follow the actual surveyed lot lines, rights-of-way or easements.

(3) Boundaries shown appearing to follow the corporate limits shall follow such corporate limits.

(4) Boundaries shown appearing to follow the extraterritorial jurisdiction boundaries of the town shall follow such boundaries.

(5) Boundaries shown appearing to follow railroad lines shall be midway between the main tracks or the centerline of a single track.

(6) Boundaries shown parallel to or as extensions of features indicated in this section shall be construed as such. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.

(7) Boundaries shown at the intersection of streets shall be at the intersection of the street centerlines.

(8) Where the actual locations of existing physical or natural features very from those shown on the zoning map, or in the event of other circumstances not covered by this section, the Land Use Administrator shall have the authority to interpret district boundaries.

(B) Zoning of streets, private streets, and alleys. All streets, private streets, public ways and alleys, if not otherwise specifically designated, shall be zoned the same as the adjacent land is zoned to the centerline. In addition, they may be used for customary and incidental transportation purposes. (Ord. passed 10-1-07)

§ 152.010 DEFINITIONS.

(A) *Intent.* For the purpose of interpreting this chapter, certain words, concepts, and ideas are defined herein. Except as defined herein, all other words used in this chapter shall have their everyday meaning as determined by their dictionary definition.

(B) *Interpretation of commonly used terms and words.*

(1) Words in the present tense include the future tense.

(2) Words used in the singular number include the plural, and words used in the plural include the singular unless the natural construction of the wording indicates otherwise.

(3) The word "person" includes a firm, association, organization, corporation, trust and company as well as an individual.

(4) The phrase "used for" includes the meaning "designed for".

(5) The word "structure" includes the word "building".

(6) The word "lot" includes the words "plot", "parcel", or "tract".

(7) The word "shall" is always mandatory and not merely directory.

(8) The words "map" or "zoning map" refer to the "Official Zoning Map, Town of Franklin".

(9) The phrase "Planning Director" or "Administrator" refers to the Land Use Administrator of the town or designee thereof, who is the individual charged with the administration of this chapter.

(10) The phrase "Board of Aldermen" refers to the Board of Aldermen of the town.

(11) The phrase "Planning Board" refers to the Planning Board of the town.

(12) The phrase "Board of Adjustment" refers to the Board of Adjustment of the town.

(13) The phrase "Planning Department" refers to the Planning Department of the town.

(14) The words "Ordinance", "Code", "UDO" and "Unified Development Ordinance" are synonymous and refer to the "Town of Franklin Unified Development Ordinance."

(C) *Definitions of basic terms.* Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter.

ABUT. To reach; to touch. To touch at one end or side of something; to be contiguous; join at a border or boundary; terminate on; end at; border on; reach or touch with an end.

ACCESSORY USE OR STRUCTURE. A structure or a portion of a principal structure or use, which is subordinate to a principal structure or use, on the same lot, and is used for purposes customarily incidental to the principal structure. Garages, carports, and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms and may or may not be located on the same parcel as the farm dwelling or shop building.

ADDITION (to an existing building). An extension or increase in the floor area or height of a building or structure.

ADULT DAY CARE. Adult day care offers support, services, and supervision to older, frail, or disabled adults who have difficulty taking care of themselves at home, but wish to maintain their independence. Services may include an individual plan of care, skilled nursing care and health education, rehabilitation services, personal care and supervision, social services, recreational therapy, meals, and transportation.

ADULT DAY CARE CENTER. A facility where adult day care is provided for more than six adults in an institutional setting.

ADULT DAY CARE HOME. An individual's home wherein such individual provides adult day care for no more than six adults.

AGRICULTURE. The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal husbandry, and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities. The term shall not include agricultural industries such as commercial poultry or swine production, cattle or swine feed lots, fur bearing animal farms, commercial greenhouses, commercial fish or poultry hatcheries, and other similar activities.

ALLEY. A public way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

ANIMAL BOARDING FACILITY. A facility whose primary purpose is the boarding of household pets. This term includes animal kennels, which are commercial establishments where the grooming, boarding, training, and selling of animals may be conducted, and animal shelters, which are typically governmental or nonprofit organizations devoted to the welfare, protection and humane treatment of animals. The term shall not be construed to include facilities where the boarding of animals is an incidental use, such as animal hospitals or clinics and pet stores.

ANIMAL HOSPITALS AND CLINICS. Establishments that include services by licensed practitioners of veterinary medicine, dentistry, or surgery for animals, boarding services for pets, and grooming. This term does not include outdoor "kennels".

ASSISTED LIVING FACILITY. An establishment offering housing services for those, such as the elderly, who cannot care for themselves. This term includes uses such as congregate living services assisted living services, continuing care retirement centers, hospice, and skilled nursing services.

ASSISTED LIVING UNIT. A unit occupied by an individual or individuals who are unable to live independently. The unit is part of a facility that provides indoor, conveniently located, shared food preparation service and major dining areas, and common recreation, social, and service facilities for the exclusive use of all residents.

BED AND BREAKFAST FACILITIES. Establishments primarily engaged in providing short-term lodging in facilities known as bed-and-breakfast inns. These establishments provide short-term lodging in private homes or small buildings converted for this purpose. ***BED AND BREAKFAST*** establishments are characterized by a highly personalized service and meet the following requirements:

(1) They do not serve food or drink to the general public for pay;

(2) They serve only the breakfast meal, and that meal is served only to overnight guests of the business;

(3) They include the price of breakfast in the room rate; and

(4) They serve as the permanent residence of the owner or the manager of the business.

BOARDING HOUSE. A residential use consisting of at least one dwelling unit together with one or more rooms that are rented out or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units. Notwithstanding the foregoing, the renting out of one or two rooms within a single-family residence may be regarded as an accessory use.

BUILDING. A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals or chattels, and including tents, lunch wagons, dining cars, trailers, mobile homes, manufactured homes, fences, and similar structures whether stationary or movable. The term ***BUILDING*** shall be construed as if followed by the words "or parts thereof." Each portion of a building separated by division walls from the ground up without openings shall be considered a separate building.

BUILDING, PRINCIPAL. The primary building on a lot or a building that houses a principal use.

BUILDING HEIGHT. The vertical distance measured from the grade to the highest point of the coping of a flat roof; to the deck line of a mansard roof; or the mean height level between the eaves and ridge of a gable, hip or gambrel roof.

BUSINESS SERVICES. Establishments primarily engaged in rendering services to businesses. Examples of services provided include, without limitation, the following: document preparation, telephone answering, telemarketing, mailing (except direct mail advertising), court reporting, and stenography. These establishments may operate copy centers, which provide photocopying, duplicating, blueprinting, or other copying services besides printing. They may also provide a range of support activities, including mailing services, document copying, facsimiles, word processing, onsite PC rental, and office product sales.

CEMETERY. A parcel of land used for interment of the dead in the ground or in mausoleums.

CHILD CARE CENTER. An individual, agency, or organization providing supervision or care on a regular basis for children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adults. ***CHILD DAY CARE CENTERS*** are designed and approved to accommodate seven or more children at a time and are not an accessory to residential use.

CHILD CARE HOME. Supervision or care provided on a regular basis, as an accessory use within a principal residential dwelling unit, by a resident of the dwelling for not more than six children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

COMMON SPACE. Common space is intended to shape the design and character of a project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. It shall be designed to create areas where workers, residents and shoppers, as the case may be, are directly or indirectly invited to gather, browse, sit, interact, or congregate. It shall be arranged as community space with open areas, landscaping, seating facilities, and lighting fixtures which provide for safety and visual effects.

COMMUNITY ASSOCIATION. A homeowners association, condominium association, or similar organization, organized to own, maintain and operate common facilities and to enhance and protect their common interests.

CONSTRUCTION TRADES FACILITY. An establishment primarily engaged in construction, including new work, additions, alterations, reconstruction, and repairs. Offices for construction trades which are separate from and do not include construction plants or storage should be classified as offices for purposes of this chapter.

CONVENIENCE STORE. A one story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It is designed to attract and depends upon a large volume of "stop and go" traffic.

CIVIC CENTERS AND CULTURAL ARTS FACILITIES. Facilities designed to promote cultural advancement and serve the community. Examples include the following: live theater; dance, or music establishments; art galleries, studios and museums; non-profit civic or fraternal organizations; museums; exhibition or similar facilities; libraries; and community centers, such as the YMCA and YWCA.

DEDICATION. The reservation for public use of an area of land, usually a strip of land, a street right-of-way or utilities easement, within which there is to be or may be located streets, sidewalks, utility systems and drainage structures, or a lot intended to

be used for a public purpose such as a park, playground, or other public facility.

DENSITY. The number of dwelling units per acre of land developed or used for residential purposes.

DEVELOPER. A person who is responsible for undertaking development as defined herein.

DEVELOPMENT. Any man-made use of, or change to, improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

DWELLING. A building or portion of building arranged to provide living quarters for one or more families.

DWELLING, ACCESSORY. A dwelling unit designed for occupancy by one or two persons, not exceeding 33% of the size of the main dwelling up to 800 square feet of gross floor space and located on an owner occupied lot with an existing single-family dwelling. No more than one such dwelling shall be situated on any lot. The unit shall be located in accordance with § 152.095.

DWELLING, APARTMENT. A structure of at least two stories where dwelling units are located above other units.

DWELLING, MULTI-FAMILY. A building arranged to be occupied by three or more families living independently of each other.

DWELLING, SINGLE-FAMILY ATTACHED. A one-family dwelling attached to two or more one-family dwellings by common vertical walls. No dwelling unit may be located above another unit.

DWELLING, SINGLE-FAMILY DETACHED. A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and which is not attached to any other dwelling by any means.

DWELLING, TWO-FAMILY. A building arranged to be occupied by two families living independently of each other, the structure having two dwelling units.

EVERGREEN. A plant which has green foliage throughout the year.

FAMILY. One or more persons occupying a single dwelling unit, provided that, unless all members are related by blood or marriage, no such family shall contain over six persons, but further provided that domestic servants employed on the premises may be housed in the principal building, not to exceed two domestic servants.

FINANCIAL SERVICES INSTITUTIONS. Establishments that engage in financial transactions that create, liquidate, or change ownership of financial services. Banks, credit unions, and savings institutions may perform central banking functions, accept deposits, and lend funds from these deposits. In addition to banks and credit unions, financial services institutions may include: credit agencies, trust companies, holding companies, lending and thrift institutions, securities/commodity contract brokers and dealers, security and commodity exchanges, vehicle finance (equity) leasing agencies, and investment companies.

FOOD PROCESSING ESTABLISHMENT. A commercial establishment in which food is processed or otherwise prepared for human consumption but not consumed on the premises.

FUNERAL HOMES AND SERVICES. Establishments for preparing the dead for burial or interment and for conducting funerals (i.e. providing facilities for wakes, arranging transportation for the dead, and selling caskets and related merchandise).

GROUP CARE FACILITIES. A facility that provides resident services to more than six individuals, at least one of whom is unrelated to the others. These individuals are handicapped, aged, or disabled, or are undergoing rehabilitation, and are being provided services in the group care facility to meet their needs. This category includes uses licensed or supervised by any federal, state, or county health/welfare agency, such as group dwellings (all ages), halfway houses, nursing homes, resident schools, resident facilities, and foster or boarding homes.

GROSS FLOOR AREA. The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

HOME OCCUPATION. An occupation or profession conducted within a dwelling unit by a residing family member that is incidental to the primary use of the dwelling as a residence. Home occupations are small and quiet businesses which generally cannot be discerned from the frontage, are seldom visited by clients, require little parking, little

or no signage, have only one or two employees and provide services such as professional services, music instruction, and hair styling.

HOSPITAL. A health care facility the purpose of which is to provide for care, treatment and testing for physical, emotional, and/or mental injury, illness, or disability, and overnight boarding of patients, either on a for-profit or not-for-profit basis. This term does not include group homes.

HOTELS AND MOTELS. Establishments providing lodging and short-term accommodations for travelers. They may offer a wide range of services including overnight sleeping space, food services, convention hosting services, and/or laundry services. Entertainment and recreation activities may also be included. Extended-stay hotels are included in this category.

LAND USE ADMINISTRATOR. The official responsible for the overall administration and enforcement of this chapter. The Land Use Administrator may delegate duties under these regulations; however the Land Use Administrator shall remain responsible for their overall administration and enforcement.

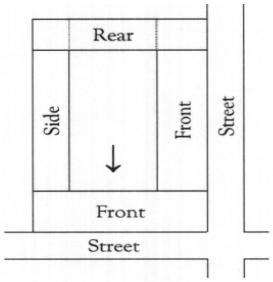
LAUNDRY, DRY CLEANING PLANT. A service establishment engaged primarily in high volume laundry and garment services, including, without limitation, carpet and upholstery cleaners, diaper services, dry-cleaning and garment pressing, commercial laundries and linen supply. These facilities may include customer pick-up but do not include coin-operated laundries or dry cleaning pick-up stores without dry cleaning equipment.

LIVE-WORK UNIT. An attached residential building type with small commercial enterprises on the ground floor and a residential unit above or behind with a common tenant in both spaces. Dual occupancy is not permitted.

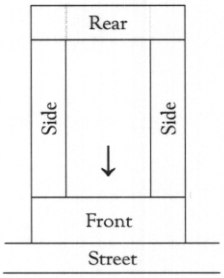
LOT. A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

LOT OF RECORD. A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Macon County, or a lot described by metes and bounds, the description of which has been so recorded.

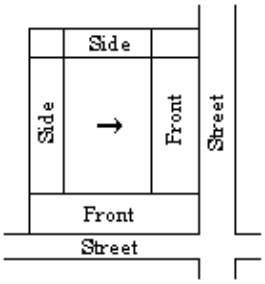
LOT, CORNER. A parcel abutting two or more streets at their intersection. These parcels will have a front yard abutting each street in addition to one side yard and one rear yard.



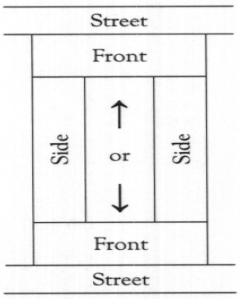
LOT, INTERIOR. A parcel that is not a corner lot, reverse corner lot, or through lot.



LOT, REVERSE CORNER. A corner lot whose side street line is substantially a continuation of the front line of the lot upon which it rears. These parcels will have a front yard abutting each street, with side yards running along the remaining lot lines.



LOT, THROUGH. A parcel having frontage on two parallel or approximately parallel streets. These parcels will have two side yards and may have a front yard facing either street.



MANUFACTURED HOME.

(1) A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly on the building site which also meets the following requirements:

(a) It is at least eight feet in width and 32 feet in length;

(b) It bears a seal certifying that it was built to the standards adopted pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. Sec. 5401, et seq.;

(c) It is placed upon a permanent foundation which meets the installation and foundation requirements adopted by the North Carolina Commissioner of Insurance;

(d) It is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site; and

(e) It does not have any wheels or axles permanently attached to its body or frame.

(2) Dwelling units built to, or utilizing any of, the following as primary construction standards are not considered manufactured homes suitable for use as permanent dwelling units on any lot other than a licensed RV Park: National Electrical Code Article 551; National Fire Protection Association No. 1192; and American National Standards Institute No. 119.5. Such construction standards are applicable to recreational vehicles.

MANUFACTURED HOME PARK. The location of two or more manufactured homes or manufactured home spaces on a single parcel of land, or a grouping of two or more manufactured homes on at least two contiguous parcels when such parcels are under common ownership and/or management as a park for the rental of manufactured homes or manufactured home spaces.

MANUFACTURING, HEAVY. A nonresidential use that requires an NPDES permit for an industrial or stormwater discharge or involves the use or storage of any hazardous materials or substances or that is used for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity. Typically the largest facilities in a community which have complex operations, some of which may be continuous (24 hours a day/seven days per week).

MANUFACTURING, LIGHT. A non-residential use that requires an NPDES permit for an industrial or stormwater discharge or involves the use or storage of any hazardous materials or substances or that is used for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity. Facilities are typically designed to look and generate impacts like a typical office building, but rely on special power, water, or waste disposal systems for operation. Noise, odor, dust, and glare of each operation are completely confined within an enclosed building, insofar as practical.

MINI-WAREHOUSES. A building containing separate enclosed storage spaces the sizes of which may vary, which are leased or rented on an individual basis.

MINOR BOUNDARY LINE ADJUSTMENTS. The placement, deletion or movement of any boundary line in one of the following ways.

(1) The combination or recombination of portions of previously subdivided and recorded lots where the resulting total number of lots is not increased or not greater than four and the resultant lots are equal to or exceed the standards of the municipality as shown in its subdivision regulations.

(2) The public acquisition by purchase of strips of land for the widening or opening of streets for public transportation system corridors.

(3) The division of a residentially zoned tract in single ownership into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in its subdivision regulations.

MODULAR HOMES. A factory-built dwelling unit, other than a manufactured home, that is labeled as a North Carolina Modular Home and built and set up in accordance with the North Carolina Residential Code, current edition. Such structures include varieties commonly delivered onsite in modules, as well as "on-frame" structures delivered completely pre-assembled.

MOTOR FREIGHT TERMINAL. A building or area in which trucks, including tractor or trailer units, are parked, stored, or serviced, including the transfer, loading or unloading of goods. A terminal may include facilities for the temporary storage of loads prior to transshipment.

MOTOR VEHICLES. All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

NONCONFORMITIES. A lot, structure, use of land, or condition, which existed lawfully and was created in good faith prior to the adoption, revision, or amendment to this chapter, and which conformed to applicable regulations in affect prior to the adoption, revision, or amendment to this chapter in terms of size, area, dimension, location, intensity of use, or other condition, but which now fails to conform to the requirements of this chapter by reason of such adoption, revision, or amendment. ***NONCONFORMITIES*** include, but are not limited to, the following:

(1) Non-conforming lots: lots of improper size, shape, or structural density; or lots lacking frontage upon a public street.

(2) Non-conforming structures: structures located within a right-of-way, or that exceed height or setback limitations, or that are located within setback areas, floodways, or stream-side protection areas.

(3) Non-conforming uses of land: industrial activity within residentially zoned areas, hazardous chemical storage in flood-prone areas, open storage in a improperly zoned area.

(4) Non-conforming conditions: insufficient parking, landscaping, or buffering for an otherwise conforming use or structure; cleared vegetation in a stream-side protection area; inadequate storm water control measures.

OPEN SPACE. Area to provide for a predominately pervious land surface providing spaces for landscaping and other visual enhancements, pedestrian circulation and wildlife habitat. The following are not designated open space; vehicular use areas such as drives, parking lots and service areas; and buildings. Pedestrian amenities, both pervious and impervious are permitted in open spaces.

PARKING SPACE. A portion of the vehicular use area set aside for the parking of one vehicle.

PERSONAL SERVICES. Establishments primarily engaged in providing services generally to individuals, such as dry-cleaning and laundry pick-up facilities, portrait photographic studios, beauty and barber shops, seamstress shops, shoe repair shops, and clothing rental shops.

PLACES OF WORSHIP. Any facility such as a church, temple, monastery, synagogues, or mosque used by a non-profit organization for worship and, if applicable customary related uses such as education (pre-schools, religious education, etc.), recreation (gymnasiums, activity rooms, ball fields, etc.), housing (rectory, parsonage, elderly or disabled housing, etc.) and accessory uses such as cemeteries, mausoleums, soup kitchens, and bookstores.

PLANNED DEVELOPMENT. A residential or commercial development which promotes the efficient and well-planned use of land through unified development while providing the town with open space, compatible uses, optimum service of community facilities and adequate vehicular access and circulation.

PRIVATE CLUB. Any person, firm, corporation or association, key club, bottle club, locker club, pool club or any other kind of club or association having, possessing or requiring membership and excluding the general public from its premises or place of meeting, or congregating, or operating, or exercising control over any other place where persons are permitted to drink alcoholic beverages, consume food, observe entertainment, live or otherwise, play at video, mechanical or electronic games and/or dance, other than in a private home.

PROFESSIONAL SERVICES. Services provided that make available the knowledge and skills of their employees to sell expertise and perform professional, scientific, and technical services to others. Such services include, without limitation, the following: legal services; accounting, tax, bookkeeping, and payroll services; architectural, engineering, and related services; graphic, industrial, and interior design services; consulting services; research and development services; advertising, media, and photography services; real estate services; investment banking, securities, brokerages and insurance-related services; and medical services such as physician's and dentist's offices.

PUBLIC UTILITY FACILITY. Any structure or facility transmitting a service provided by a government or public utility, including, without limitation, fire stations, emergency medical service centers, telephone and repeater stations, pumping substations, and water towers, but not including telecommunication towers, antennas, and other telecommunication devices.

RECREATION FACILITIES, INDOOR. Uses or structures for active recreation including, without

limitation, gymnasiums, natatoriums, athletic equipment, indoor running tracks, climbing facilities, court facilities and their customary accessory uses. This definition is inclusive of both non-profit and for-profit operations.

RECREATION FACILITIES, OUTDOOR. Parks and other open space used for active or passive recreation such as ball fields, playgrounds, greenway trails, tennis courts, riding stables, campgrounds, and golf courses, and their customary accessory uses including, but not limited to, maintenance sheds, clubhouses, pools, restrooms, and picnic shelters. This definition is inclusive of both non-profit and for-profit operations.

RESTAURANT. A retail business selling ready-to-eat food and/or beverages for on or off-premise consumption. Customers may be served from an ordering counter (i.e. cafeteria or limited service restaurant), at their tables (full-service restaurant), and at exclusively pedestrian-oriented facilities that serve from a walk-up ordering counter (snack and/or nonalcoholic bars).

RETAIL SALES. A use category allowing premises to be available for the commercial sale of merchandise and prepared foods. Such use category does not include manufacturing.

SCHOOL, ELEMENTARY AND SECONDARY. A public or private institution for education or learning which does not include lodging. This term includes any school licensed by the state and that meets the state requirements for elementary and secondary education and also includes any accessory athletic, recreational or other facilities.

SCHOOL, VOCATIONAL/TECHNICAL. A public or private institution for education or learning of a vocational or technical nature which does not include lodging. This term includes any accessory athletic, recreational or other facilities. These schools offer vocational and technical training in a variety of technical subjects and trades. Training may lead to job-specific certification.

SERVICE STATION. An establishment that primarily retails automotive fuels. These establishments may also provide services such as automotive repair, automotive oils, and/or replacement parts and accessories. Gas stations include structures that are specialized for selling gasoline with storage tanks, often underground or hidden. Bays for car washes may also be included.

SETBACK. The distance from the property line or street right-of-way, whichever is closer, to the closest edge of a structure. Where the street right-of-way is not defined, that distance shall start at the edge of the maintained area.

SHELTER FACILITY. A temporary residence operated by a nonprofit organization meeting the needs of citizens temporarily in crisis such as: family violence, natural disaster, fire, economic distress, neighborhood violence, homelessness, and unwed pregnant teens.

SHRUB. A woody plant, usually multi-stemmed or well-branched from the base, the branches being retained to the ground. When used for buffer plantings, shrubs must also reach a mature height between four and 15 feet.

STORAGE YARD. The open storage of various materials outside of a structure as a principal use.

STREET. A public street or a street with respect to which an offer of dedication has been made.

STREET, ARTERIAL. A major street in the town's street system that serves as an avenue for the circulation of traffic onto, out, or around the town and carries high volumes of traffic.

STREET, COLLECTOR. A street whose principal function is to carry traffic between minor, local, and sub-collector streets and arterial streets, but that may also provide direct access to abutting properties. It serves or is designed to serve, directly or indirectly, more than one hundred dwelling units and is designed to be used or is used to carry more than eight hundred trips per day.

STREET, CUL-DE-SAC. A street that terminates in a vehicular turn-around.

STREET, LOCAL. A street whose sole function is to provide access to abutting properties. It serves or is designed to serve at least ten, but not more than 25 dwelling units and is expected to or does handle between 75 and 200 trips per day.

STREET, MARGINAL ACCESS. A street that is parallel to and adjacent to an arterial street and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the arterial street and so that the flow of traffic on the arterial street is not impeded by direct driveway access from a large number of abutting properties.

STREET, MINOR. A street whose sole function is to provide access to abutting properties. It serves or is designed to serve not more than nine dwelling units and is expected to or does handle up to 75 trips per day.

STREET, SUBCOLLECTOR. A street whose principal function is to provide access to abutting properties, but is also designed to be used or is used to connect minor and local streets with collector or arterial streets. Including residences indirectly served through connecting streets, it serves or is designed to serve at least 26 but not more than 100 dwelling units and is expected to or does handle between 200 and 800 trips per day.

STRUCTURE. Any walled and roofed building or other physical object, whether temporary or permanent, that is designed for human habitation or to uphold, house, contain, or bear other objects or materials, including but not limited to buildings, manufactured homes, swimming pools, telecommunications towers, and LPG storage tanks.

STUDIO-ART, DANCE, MARTIAL ARTS, MUSIC, ETC. Small facilities which provide individual and/or group instruction and training in the arts, including the martial arts. This term also includes the processing of photographs produced only by users of the studio facilities, yoga and similar instruction, and aerobics and gymnastics studios with no other fitness facilities or equipment.

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development whether immediate or future. This term includes all divisions of land involving the dedication of a new street or a change in existing streets and the establishment of condominium buildings or lots, or the creation of condominium spaces within existing buildings or parcels. For the purpose of this chapter, this term does not include minor boundary line adjustments as previously defined.

SUBDIVISION, MAJOR. Any subdivision not meeting the definition of a minor subdivision as listed below.

SUBDIVISION, MINOR. The subdivision of five acres or less into five or fewer lots and involving no new public or private streets or roads, right-of-way dedication, easements or utility extensions. Also includes the combination and recombination of existing lots.

SURFACE WATER. Any body of water, perennial or intermittent stream (including any "blue line stream" as indicated on a United States Geological Survey Topographical Map), river, brook, wetland as identified by means of the Cowardin wetland classification system or other appropriate classification system as employed by agencies of the Untied States or the State of North Carolina), swamp, pond, lake, branch, creek, reservoir, waterway, or other body or accumulation of water, whether surface or temporarily underground by means of a man-made conveyance, public or private, permanent or intermittent, or natural or artificial, that is contained in, flows through, or borders upon any portion of the Town of Franklin and its extra-territorial jurisdiction.

TEMPORARY STRUCTURE. A structure intended to serve a specific event and to be removed upon the completion of that event. This term includes, but is not limited to, bleachers, perimeter fencing, vendor tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, platforms, and other impermanent devices, which do not involve grading or land form alteration for installation, and which are not permanently affixed to the ground.

TEMPORARY USE. An activity or use of land which, having met certain requirements and conditions, may be permitted for a period of limited duration, and which may utilize "temporary structures" for the duration of the event.

THEATER. A specialized theater for showing movies or motion pictures on a projection screen. This category also includes cineplexes and megaplexes, complex structures with multiple movie theaters, each theater capable of an independent performance.

TOWER. Any tower or structure, including those erected for the purpose of transmitting or receiving signals (i.e., telephonic, radio, television or microwave), and including the construction of new free-standing facilities or facilities that extend more than 20 feet above the normal height of the building or structure on which they are placed. The following shall not be included in this definition:

(1) Amateur radio facilities with antennas mounted on supporting structures less than 100 feet in height;

(2) Residential antennas for receiving television or AM/FM radio broadcasts;

(3) Residential satellite dishes; and

(4) Commercial or industrial satellite dishes that are less than 20 feet in height.

VARIANCE. A grant of relief from the requirements of this chapter.

WAREHOUSE. Facilities for the storage of furniture, household goods, or other commercial goods of any nature. This term includes cold storage but does not include the following: warehouse, storage, or mini-storage facilities offered for rent or lease to the general public; warehouse facilities primarily used for wholesaling and distribution; or terminal facilities for handling freight.

WHOLESALE SALES. Establishments engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Examples of these establishments include, without limitation, the following:

(1) Agents, merchandise or commodity brokers, and commission merchants;

(2) Assemblers, buyers and associations engaged in the cooperative marketing of farm products;

(3) Merchant wholesalers; and

(4) Stores primarily selling electrical plumbing, heating, and air conditioning supplies and equipment.

YARD. A space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings and structures are expressly permitted.

YARD, FRONT. A yard situated between the front building line and the front lot line extending the full width of the lot.

YARD, REAR. A yard situated between the rear building line and the rear lot line extending the full width of the lot.

YARD, SIDE. A yard situated between a side building line and side lot line and extending from the required front yard to the required rear yard. In determining the situation of accessory structures, the side yard shall be assumed to extend through the rear yard to the rear lot line.

ZONING DISTRICT. The term applied to various geographical areas of the Town of Franklin for the purpose of interpreting the provisions of this chapter. The districts are designated with the use of symbols on the official zoning map. Regulations controlling land use in the various districts within the Town of Franklin are set forth in §§ 152.020 - 152.041. The terms "district" and "zoning district" are synonymous and are used interchangeably throughout this chapter.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

ZONING DISTRICT DIMENSIONAL AND USE REQUIREMENTS

§ 152.020 R-1 RESIDENTIAL.

The R-1 Residential Zoning District Classification is established to provide areas for medium-density, single-family residential uses, where adequate water and sewer facilities are available to serve the development. Low-density single-family residential uses are allowed where water and/or sewer facilities are not available; consequently, the minimum lot sizes shall be increased and the density shall be reduced to accommodate the larger lot sizes that may be

required by the Macon County Department of Public Health.

(A) *Dimensional requirements.*

Minimum lot size, single-family (sq. ft.): 10,000
Minimum lot size, two-family (sq. ft.): 15,000
Minimum setbacks (feet): front: 25
side: 10
rear: 15
Maximum building height (feet): 35
Maximum gross floor area (sq. ft.): no restrictions
Minimum open space (% of site): 40 (not applicable to single-family and two-family residences.)

(B) *Permitted uses.* The following uses are permitted by right in the R-1 Residential Zoning District Classification provided they meet all requirements of this section and all other requirements established in this ordinance. A use followed by the notation (SR) is permitted subject to special requirements contained in §§ 152.120 - 152.123, below.

(1) Accessory uses and/or structures

(2) Accessory dwelling units (SR)

(3) Adult day care homes

(4) Agriculture

(5) Bed and breakfast facilities (SR)

(6) Cemeteries

(7) Child care homes

(8) Child day care centers (SR)

(9) Home occupations (SR)

(10) Minor planned residential developments, subject to the requirements of §§ 152.050 - 152.062, herein.

(11) Modular homes

(12) Places of worship

(13) Public parks, including greenways

(14) Public utility facilities (SR)

(15) Residences, single-family

(16) Residences, two-family

(17) Schools, elementary and secondary (SR)

(C) *Special uses.* The following use shall be permitted in the R-1 Residential District Classification only upon issuance of a special use permit pursuant to §§ 152.050 - 152.062, below.

Adaptive reuses (SR)
(Ord. passed 10-1-07)

§ 152.021 R-1SU RESIDENTIAL SPECIAL USE.

The purpose and dimensional requirements of this zoning district classification are identical to the R-1 Residential Zoning District Classification except that a special use permit, as provided for in §§ 152.050 - 152.062, herein, is required as a prerequisite to any use or development. The permitted uses contained in § 152.020(B) are permissible uses in the R-1SU Zoning District Classification and shall only be permitted by the terms of a special use permit issued pursuant to § 152.053.
(Ord. passed 10-1-07)

§ 152.022 R-2 RESIDENTIAL.

The R-2 Residential Zoning District Classification is established to provide areas for medium- to high-medium density, for single- and multi-family residential uses, with a maximum density of eight dwelling units per acre, where adequate water and sewer facilities are available to serve the development. Housing types allowed include single-family, two-family, multi-family and individual manufactured homes, and manufactured home parks. Where water and/or sewer facilities are not available; consequently, the minimum lot sizes shall be increased and the density shall be reduced to accommodate the larger lot sizes that may be required by the Macon County Department of Public Health.

(A) *Dimensional requirements.*

(1) Minimum lot size, single-family (sq. ft.): 8,000

(2) Minimum lot size, two-family (sq. ft.): 12,000

(3) Minimum setbacks (feet): front: 25
side: 10
rear: 15

(4) Maximum building height (feet): 35

(5) Maximum gross floor area (sq. ft.): no restrictions

(6) Minimum open space (% of site): 40 (Not applicable to single-family and two-family residences.)

(B) *Permitted uses.*

(1) The following uses are permitted by right in the R-2 Residential Zoning District Classification provided they meet all requirements of this section and all other requirements established in this ordinance. A use followed by the notation (SR) is permitted subject to special requirements contained in §§ 152.120 - 152.123, below.

(2) All permitted uses listed in the R-1 Residential Zoning District Classification, subject to special requirements if noted. Manufactured homes, individual, limited to one home per lot.

(C) *Special uses.* The following use shall be permitted in the R-2 Multi-Family Residential District Classification only upon issuance of a special use permit pursuant to §§ 152.050 - 152.062, below.

Adaptive reuses (SR)
(Ord. passed 10-1-07)

§ 152.023 R-2SU RESIDENTIAL SPECIAL USE.

The purpose and dimensional requirements of this zoning district classification are identical to the R-2 Residential Zoning District Classification except that a special use permit, as provided for in §§ 152.050 - 152.062, herein, is required as a prerequisite to any use or development. The permitted uses contained in § 152.022(B) are permissible uses in the R-1SU Residential Zoning District Classification and shall only be permitted by the terms of a special use permit issued pursuant to § 152.053.
(Ord. passed 10-1-07)

§ 152.024 C-1 CENTRAL COMMERCIAL.

The C-1 Central Commercial District is established to recognize the existing historic role and heritage of Franklin's downtown area, and to promote its preservation, redevelopment and expansion. Further, this district provides concentrated retail, service, office, civic uses, places of worship, residences, and other compatible uses of land.

(A) *Dimensional requirements.*

Maximum setback (feet): front 0
side: 0
rear: 0
Minimum lot/parcel size (sq. ft.): no restrictions

Minimum setbacks (feet): front: 0
Maximum building height (feet): 65
Maximum gross floor area (sq. ft.): 30,000

(B) *Permitted uses.* The following uses are permitted by right in the C-1 Central Commercial Zoning District Classification provided they meet all requirements of this section and all other requirements established in this ordinance. A use followed by the notation (SR) is permitted subject to special requirements contained in §§ 152.120 - 152.123, below.

(1) All permitted uses listed in the R-1 Residential Zoning District Classification, subject to special requirements if noted.

(2) Adult day care centers registered with the North Carolina Department of Health and Human Services.

(3) Bed and breakfast facilities.

(4) Cemeteries.

(5) Civic centers and cultural art facilities.

(6) Civic clubs and fraternal organizations.

(7) Dance and fitness facilities.

(8) Dry cleaning and laundry establishments.

(9) Funeral homes and crematoria.

(10) Home occupations.

(11) Hotels and motels.

(12) Laundries, coin-operated.

(13) Live/work or mixed use buildings in which any of the business uses described above occur on the first floor and residential uses occur behind or on upper floors.

(14) Music and art studios and galleries.

(15) Newspaper offices and printing establishments.

(16) Offices, professional, governmental and financial, including banks.

(17) Parking lots and garages.

(18) Parking lots and structures.

(19) Places of worship.

(20) Private clubs (SR).

(21) Public and semi-public uses such as libraries, museums and galleries.

(22) Public utility facilities.

(23) Recreational facilities, indoor.

(24) Repair services.

(25) Restaurants.

(26) Retail sales.

(27) Schools, business, technical and vocational.

(28) Service stations.

(29) Services, personal, business and repair.

(30) Theaters.

(31) Transit facilities.

(32) Wholesale sales.

(C) *Prohibited uses.* No non-residential development or redevelopment exceeding 30,000 square feet in gross floor area shall be permitted in the C-1 Central Commercial Zoning District Classification.

(D) *Streetscape design.* The relationship between a building and areas for pedestrian or vehicular circulation shall be carefully planned in order to avoid negative impacts of one upon the other. All buildings and uses developed in this zoning district classification shall meet the following minimum standards; provided, however, buildings undergoing renovation and rehabilitation, in which the footprint of existing structures is not being increased or altered, may be exempted from regulations regarding street walls and urban open spaces if site conditions make compliance therewith impractical.

(1) *Street walls.*

(a) The first floors of all buildings, including structured parking, shall be designed to encourage and complement pedestrian-scale interest and activity. To the extent practicable, in consideration of the nature of the uses proposed, this is to be accomplished in part by the use of transparent windows and doors arranged so that the uses are visible from and/or accessible to the street on the first floor street frontage. In addition a combination of design elements shall be used on the building facade and/or in relationship to the building at street level to animate and enliven the streetscape. These design elements may include, but are not limited to, the following: ornamentation, molding, changes in material or color, architectural lighting, works of art, fountains and pools, street furniture, landscaping and garden areas, and display areas.

(b) Any design elements which extend into the public right-of-way on city or state maintained streets require an encroachment agreement with the Town of Franklin or the North Carolina Department of Transportation (NCDOT), as appropriate. Where expanses of blank wall are necessary, they may not exceed 20 feet in length. A blank wall is a facade which does not add to the character of the streetscape and does not contain transparent windows or doors or sufficient ornamentation, decoration or articulation as listed in the above paragraph. The first floor and street level shall be designed with attention to adjacent public or private open spaces and existing streetscape improvements. The provision of multiple entrances from the public sidewalk or open spaces is encouraged.

(2) *Structured parking facilities.* In addition to the above requirements, in the event that any openings for ventilation, service, or emergency access are located at the first floor level in the building facade, then they shall be an integral part of the overall building design. These openings as well as pedestrian and vehicular entrances shall be designed to minimize visibility of parked cars. The remainder of the street level frontage shall be either commercial space or an architecturally articulated

facade designed to minimize the visibility of parked cars. All levels of a structured parking facility shall be designed and screened in such a way as to minimize visibility of parked cars. In no instance will rails or cabling alone be sufficient to meet this screening requirement. The design requirements of this section apply to all building facades which are visible from any public right-of-way.

(3) *Screening.* All structures and facilities for trash, loading, outdoor equipment, and storage, including the storage of inventory, shall be screened so as not to be visible from the street and pedestrian circulation areas. Solid walls shall be faced with brick, stone or other decorative finish with the decorative side adjacent to the public right-of-way. Fences shall be opaque and either painted or stained with the decorative side adjacent to the public right-of-way. In no instance will a chain link or barbed wire fence be acceptable. Trees used to fulfill this requirement shall be located on private property in planters, a planting strip, berm or tree lawn, any of which shall be at least eight feet wide and at least two feet deep. The trees shall be of a small maturing evergreen variety and be at least ten feet tall at the time of planting. All shrubs shall be between 24 inches and 36 inches tall at time of planting. All plant material shall conform with the American Standard for Nursery Stock published by the American Association of Nurserymen. Trees employed to meet the screening requirement may not be counted toward the street tree planting or urban open space tree requirements. Any lot which becomes vacant through the removal of a structure for any reason shall be screened from all abutting public street rights-of-way in accordance with the provisions of this section or cleared of rubbish and debris and seeded with grass. However, if the lot is to be used for parking either as a transitional or permanent use, it shall meet all the minimum requirements for that use as established by this chapter. Maintenance of screening required under these provisions shall conform to the requirements of §§ 152.170 - 152.179, including the requirement to promptly replace dead vegetation with healthy, living plantings.

(4) *Street trees.* In addition to all other requirements of this section, at least one tree width three to three and one-half inches caliper, minimum, measured 6 inches above ground, shall be planted for each 25 feet for small maturing trees and for each 35 feet for large maturing trees of the entire building lot which abuts any public street right-of-way with a minimum of one tree required for any distance up to 35 feet. Trees shall not be planted closer than two feet, nor more than ten feet, from the back of the curb. For the purposes of this section, all specifications for measurement and quality of trees shall be in accordance with the American Standard for Nursery Stock published by the American Association of Nurserymen. All trees planted to meet this requirement shall be well-matched specimen grade and shall be limbed up six feet. Trees used to fulfill this requirement may be located on public or private property. Maintenance of street trees required under these provisions shall conform to the requirements of §§ 152.170 - 152.179, including the requirement to promptly replace dead vegetation with healthy, living plantings.

(5) *Reflective surfaces.* No development subject to these provisions may have exterior walls with a reflectivity value in excess of 36%, as measured under the applicable provisions of ASTM-C-1036. No reflective surfaces may be used on street level exterior facades.

(6) *Urban open spaces.* On parcels of ten acres or more, open spaces for public congregation and recreational opportunities are required for non-residential developments and shall be equipped or designed to allow pedestrian seating and to be easily observed from the street or pedestrian circulation areas. All urban open spaces shall comply with the minimum required design standards of this subchapter.

(a) *Urban open space size.* Buildings shall be provided with public open space behind the required setback and on private property on the basis of five square feet of urban open space per 100 square feet of gross floor area. A maximum of 30% of this required urban open space may be provided on an enclosed ground floor level provided the enclosed space meets all other requirements of these provisions.

(b) *Accessibility to the street.* Urban open space shall be designed so that it is accessible to and visible from the street.

(c) *Trees.* Within the open space area(s), one tree shall be planted for each 500 square feet. Trees shall have a minimum caliper of three to three and one-half inches measured six inches above ground at the time of planting.

(d) *Amenities.* The following amenities are permitted within an urban open space area: ornamental fountains, stairways, seating, waterfalls, sculptures, arbors, trellises, plant beds, drinking fountains, clock pedestals, public telephones, awnings, canopies, and similar structures.

(e) *Maintenance.* The building owner, lessee, management entity or authorized agent are jointly and severally responsible for the maintenance of the urban open space area including litter control and care and the replacement of trees and shrubs, as required herein.

(f) *Utilities.* All utilities service lines and connections shall be underground.

(g) *Exceptions for single-family and two-family residences.* Single-family and two-family residential dwellings shall not be required to comply with the streetscape design regulations contained herein.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.025 C-1SU CENTRAL COMMERCIAL SPECIAL USE.

The purpose and requirements of this zoning district classification are identical to the C-1 Central Commercial Zoning District Classification except that a special use permit, as provided for in §§ 152.050 - 152.062, herein, is required as a prerequisite to any use or development. The permitted uses contained in § 152.024(B) are permissible uses in the C-1SU Central Commercial Special Use Zoning District Classification and shall only be permitted by the terms of a special use permit issued pursuant to § 152.053.
(Ord. passed 10-1-07)

§ 152.026 C-2 SECONDARY COMMERCIAL.

The C-2 Secondary Commercial Zoning District Classification is established to provide for general commercial activities, for those uses requiring easy vehicular access, circulation and parking, and larger lot areas than found in the C-1 Commercial District described above. This district promotes a broad range of commercial operations and services necessary for the operation of the town and surrounding areas. Light manufacturing is allowed, but heavy manufacturing is not.

(A) *Dimensional requirements.*

Minimum lot/parcel size (sq. ft.): 8,000
Minimum lot size, two-family (sq. ft.): 12,000
Minimum setbacks (feet): front: 10
side: 10
rear: 10
Maximum building height (feet): 65
Maximum gross floor area (sq. ft.): 30,000
Minimum open space (% of site): 10 (Not applicable to single-family and two-family residences.)

(B) *Permitted uses.* The following uses are permitted by right in the C-2 Secondary Commercial Zoning District Classification provided they meet all requirements of this section and all other requirements established in this subchapter. A use followed by the notation (SR) is permitted subject to special requirements contained in §§ 152.120 - 152.123, below.

(1) All permitted uses listed in the C-1 Central Commercial Zoning District Classification, subject to special requirements if noted.

(2) Animal boarding facilities (SR).

(3) Animal hospitals and clinics.

(4) Assisted living facilities(SR).

(5) Automobile car washes.

(6) Automobile sales and service.

(7) Bus stations.

(8) Communication services.

(9) Construction trade facilities.

(10) Farm and construction equipment sales and service.

(11) Golf courses.

(12) Golf driving ranges (SR).

(13) Greenhouse and plant nurseries.

(14) Laundries, coin-operated.

(15) Lawn and garden centers.

(16) Manufacturing facilities, light.

(17) Medical clinics less than 10,000 square fee.

(18) Mini-warehouses (SR).

(19) Recreational facilities, outdoor.

(20) Shelter facilities (SR).

(21) U.S. Post Office and parcel delivery services.

(22) Vehicle repair.

(23) Wholesale sales, distribution and warehousing.

(C) *Prohibited uses.* No non-residential development or redevelopment exceeding 30,000 square feet in gross floor area shall be permitted in the C-2 Secondary Commercial Zoning District Classification.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.027 C-2SU SECONDARY COMMERCIAL SPECIAL USE.

The purpose and requirements of this zoning district classification are identical to the C-2 Secondary Commercial Zoning District Classification except that a special use permit, as provided for in §§ 152.050 - 152.062, herein, is required as a prerequisite to any use or development. The permitted uses contained in § 152.026(B) are permissible uses in the C-2SU Central Commercial Special Use Zoning District Classification and shall only be permitted by the terms of a special use permit issued pursuant to § 152.053.
(Ord. passed 10-1-07)

§ 152.028 C-3 HIGHWAY COMMERCIAL.

The C-3 Highway Commercial Zoning District Classification is established to provide areas accommodating all uses stated in the C-2 Secondary Commercial District above plus the following: uses requiring ready access to a thoroughfare, uses requiring larger parcels for larger buildings, sales lots, storage, and parking. Residential and service uses are explicitly allowed.

(A) *Dimensional requirements.*

Minimum lot/parcel size (sq. ft.): 15,000
Minimum lot size, two-family (sq. ft.): 22,500
Minimum setbacks (feet): front: 10
side: 10
rear: 10
Maximum building height (feet): 65
Maximum gross floor area (sq. ft.): 30,000
Minimum open space (% of site): 10 (not applicable to single-family and two-family residences.)

(B) *Permitted uses.* The following uses are permitted by right in the C-3 Highway Commercial Zoning District Classification provided they meet all requirements of this section and all other requirements established in this chapter. A use followed by the notation (SR) is permitted subject to special requirements contained in §§ 152.120 - 152.123, below.

(1) All permitted uses listed in the C-2 Secondary Commercial Zoning District Classification, subject to special requirements if noted.

(2) Sales of manufactured homes and recreational vehicles.

(3) Vehicle sales with lot areas in excess of one acre.

(C) *Prohibited uses.* No non-residential development or redevelopment exceeding 30,000 square feet in gross floor area shall be permitted in the C-3 Highway Commercial Zoning District Classification.
(Ord. passed 10-1-07)

§ 152.029 C-3SU HIGHWAY COMMERCIAL SPECIAL USE.

The purpose and requirements of this zoning district classification are identical to the C-3 Highway Commercial Zoning District Classification except that a special use permit, as provided for in §§ 152.050 - 152.062, herein, is required as a prerequisite to any use or development. The permitted uses contained in § 152.028(B) are permissible uses in the C-3SU Highway Commercial Special Use Zoning District Classification and shall only be permitted by the terms of a special use permit issued pursuant to § 152.053.
(Ord. passed 10-1-07)

§ 152.030 I-1 INDUSTRIAL.

The I-1 Industrial District is established to provide for areas that recognize both existing and future manufacturing operations. This classification allows all uses as described above for C-3 Highway Commercial, plus medium to heavy manufacturing operations. These districts and uses must be located so as to have direct access to or within close proximity to a thoroughfare.

(A) *Dimensional requirements.*

Minimum lot/parcel size: one acre
Minimum setbacks (feet): front: 30
side: 20
rear: 20
Maximum building height (feet): 65
Maximum gross floor area (sq. ft.): 50,000
Minimum open space (% of site): 10 (not applicable to single-family and two-family residences.)

(B) *Permitted uses.* The following uses are permitted by right in the I-1 Industrial Zoning District Classification provided they meet all requirements of this section and all other requirements established in this chapter. A use followed by the notation (SR) is permitted subject to special requirements contained in §§ 152.120 - 152.123, below.

(1) All permitted uses listed in the C-3 Highway Commercial Zoning District Classification, subject to special requirements if noted.

(2) Adult establishments, subject to requirements contained in Chapter 156, Town Code.

(3) Governmental facilities.

(4) Landfills.

(5) Manufacturing facilities, heavy.

(6) Public utility operations.

(7) Recycling and garbage disposal centers.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.031 I-1SU INDUSTRIAL SPECIAL USE.

The purpose and requirements of this zoning district classification are identical to the I-1 Industrial Zoning District Classification except that a special use permit, as provided for in §§ 152.050 - 152.062, herein, is required as a prerequisite to any use or development. The permitted uses contained in § 152.028(B) are permissible uses in the I-1 Industrial Special Use Zoning District Classification and shall only be permitted by the terms of a special use permit issued pursuant to § 152.053.
(Ord. passed 10-1-07)

§ 152.032 NMU NEIGHBORHOOD MIXED USE.

The Neighborhood Mixed Use Zoning District Classification is primarily intended to provide suitable locations for limited, neighborhood-oriented, commercial, business and service activities in close proximity to major residential neighborhoods. The district is designed to allow for a mix of residential, commercial, business and service uses in limited areas along major traffic arteries and at key intersections leading to residential neighborhoods in order to provide services to the residents of that particular neighborhood. The types of uses allowed and the standards established for development in this district should be compatible with the residential character of the area, and the uses should not cause traffic congestion, cause obnoxious noise, dust, odors, fire hazards or lighting objectionable to surrounding residences, nor visually detract from the overall appearance of the neighborhood.

(A) *Dimensional requirements.*

Minimum lot/parcel size (sq. ft.): 8,000
Minimum lot size, two-family (sq. ft.): 12,000
Minimum setbacks (feet): front: 10
side: 10
rear: 10
Maximum building height (feet): 25
Maximum footprint (sq. ft.): 5,000
Minimum open space (% of site): 20 (not applicable to single-family and two-family residences.)

(B) *Permitted uses.* The following uses are permitted by right in the NMU Neighborhood Mixed Use Zoning District Classification provided they meet all requirements of this section and all other requirements established in this chapter. A use followed by the notation (SR) is permitted subject to special requirements contained in §§ 152.120 - 152.123, below.

(1) All permitted uses listed in the R-1 Residential Zoning District Classification, subject to special requirements if noted.

(2) Grocery and convenience stores without petroleum dispensing, subject to the requirement that such stores shall not operate prior to 7:00 a.m. nor later than 9:00 p.m.

(3) Music and art studios and galleries.

(4) Newspaper offices and printing establishments.

(5) Offices, financial, governmental, medical, and professional.

(6) Restaurants, limited (SR).

(7) Retail sales, limited.

(8) Services, personal.

(C) *Prohibited uses.* No non-residential development or redevelopment exceeding 30,000 square feet in gross floor area shall be permitted in the NMU Neighborhood Mixed Use Zoning District Classification.

(D) *Design and appearance standards.* All development regulated by this chapter within the Neighborhood Mixed Use District shall conform to the following design and appearance standards.

(1) *Outdoor lighting.* Outdoor lighting fixtures shall be designed and located so as to prevent light from shining directly on vehicular traffic or adjoining property.

(2) *Landscaping.* A minimum of 20% of the lot area, excluding paved or unpaved parking areas, shall be reserved and developed only for landscaping. The landscaping may include existing vegetation. The property owner shall be responsible for the maintenance of the landscaping and the replacement of all dead plant material. Street trees shall be incorporated in the landscaping for property abutting public rights-of-way. The trees shall be deciduous and be maintained, and all dead materials shall be replaced by the next growing season.

(3) *Design.* All new construction and renovation within an NMU Neighborhood Mixed Use District is encouraged to conform to the following standards:

(a) Where possible, the project should use indigenous materials of the region, including stone and wood;

(b) Buildings, structures and grounds shall be designed using materials, finishes and proportions in a manner which will produce a coordinated appearance with adjacent properties.

(4) *Off-street parking.* Adequate off-street parking in accordance with § 152.095, herein, shall be provided.

(5) *Signage.* Signs shall be in compliance with the Residential District sign regulations contained in the Town of Franklin Sign Regulations.

(6) *Storage.* Any establishment operating in this district shall maintain and/or store all equipment or goods related to the business within principal buildings.

(7) Drive-through service. No development shall provide drive-in or drive-through service.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.033 NMUSU NEIGHBORHOOD MIXED USE SPECIAL USE.

The purpose and requirements of this zoning district classification are identical to the NMU Neighborhood Mixed Use Zoning District Classification except that a special use permit, as provided for in §§ 152.050 - 152.062, herein, is required as a prerequisite to any use or development. The permitted uses contained in § 152.032(B) are permissible uses in the NMU Neighborhood Mixed Use Special Use Zoning District Classification and shall only be permitted by the terms of a special use permit issued pursuant to § 152.053.
(Ord. passed 10-1-07)

§ 152.034 MICR MEDICAL INSTITUTIONAL CULTURAL RESIDENTIAL.

The MICR Medical Institutional Cultural Residential District is to establish and provide for a mix of medical, institutional, cultural and residential uses, while maintaining compatibility with surrounding uses of land.

(A) *Dimensional requirements.*

Minimum lot/parcel size (sq. ft.): 8,000
Minimum lot size, two-family (sq. ft.): 12,000
Minimum setbacks (feet): front: 10
side: 10
rear: 10
Maximum building height (feet): 65
Maximum gross floor area (sq. ft.): 30,000
Minimum open space (% of site): 10 (not applicable to single-family and two-family residences.)

(B) *Permitted uses.* The following uses are permitted by right in the MICR Medical Institutional Cultural Residential Zoning District Classification provided they meet all requirements of this section and all other requirements established in this chapter. A use followed by the notation (SR) is permitted subject to special requirements contained in §§ 152.120 - 152.123, below.

(1) All permitted uses listed in the R-1 Residential Zoning District Classification, subject to special requirements if noted.

(2) Assisted living facilities (SR).

(3) Civic centers and cultural art facilities.

(4) Community colleges.

(5) Funeral homes and crematoria Hospitals and clinics.

(6) Music and art studios and galleries.

(7) Offices, professional, governmental and financial.

(8) Parking lots and garages.

(9) Restaurants (SR).

(10) Retail sales, medically-oriented.

(11) Schools business, technical and vocational.

(12) Services, personal.

(C) *Prohibited uses.* No non-residential development or redevelopment exceeding 30,000 square feet in gross floor area shall be permitted in the MICR Medical Institutional Cultural Residential Zoning District Classification.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.035 MICRSU MEDICAL INSTITUTIONAL CULTURAL RESIDENTIAL SPECIAL USE.

The purpose and requirements of this zoning district classification are identical to the Medical Institutional Cultural Residential Zoning District Classification except that a special use permit, as provided for in §§ 152.050 - 152.062, herein, is required as a prerequisite to any use or development. The permitted uses contained in § 152.034(B) are permissible uses in the MICRSU Medical Institutional Cultural Residential Special Use Zoning District Classification and shall only be permitted by the terms of a special use permit issued pursuant to §§ 152.050 - 152.062.
(Ord. passed 10-1-07)

§ 152.036 EC ENTRY CORRIDOR OVERLAY.

This zoning district classification is established to provide development standards for particular roadway corridor areas which are in addition to those provided by the other zoning districts established by this chapter. The purpose for establishing this entry corridor overlay district is first, to recognize the importance that different roadway corridors play in defining the town's character as entryways and, second, to protect and preserve both the aesthetics of these important roadways and their traffic-handling capabilities, thereby contributing to the general welfare of the Town of Franklin.

(A) *Dimensional requirements.* Same as for the underlying district(s).

(B) *Permitted uses.* Same as for the underlying district(s).

(C) *Special uses.* Same as for the underlying district(s).

(D) *Prohibited uses.* Same as for the underlying district(s).

(E) *Development standards.* Dimensional requirements and all other development standards shall be the same as for underlying zoning district(s) except as modified herein.

(1) *Setbacks.* Setbacks shall be the same as for the underlying zoning district; provided, however, one or more principal structures may be authorized within the setback under the following circumstances:

(a) Such principal structure(s) is not situated within 10 feet of the projected right-of-way line of an entry corridor roadway;

(b) Parking for the site is placed to the side or rear of such structure(s) so that it is screened from view from the entry corridor by means of such structure(s) and landscaping, as necessary.

(c) When siting principal structures within the setback, the developer is encouraged to design the site, including any proposed structures, in such a way as to protect and preserve the aesthetics of the entry corridor, thereby furthering the purpose of this section.

(2) *Thoroughfare protection.* No improvements other than driveways, sidewalks, parking and landscaping shall be permitted within the limits of projected rights-of-way as specified in the Official Thoroughfare Plan.

(3) *Driveways.* Driveways serving a development parcel shall be permitted in accordance with the standards of the NCDOT; provided, however, a development parcel shall be limited to no more than two driveways on any road and no more than three driveways total. Additional driveways may be permitted when they are necessary to improve traffic movement, increase sight distances or for other safety reasons. Developers are encouraged to share parking areas and driveways with adjoining developments. No landscaping or structures of any kind shall be required or allowed to be placed near the intersections of driveways and streets that would impede safe vision of traffic.

(4) *Outdoor storage.* Outdoor storage shall be screened from view so that it is not visible from a roadway or adjacent properties. Provided, however, this section shall not apply to the outdoor display of goods for sale.

(5) *Lighting.* Lighting for the site shall be designed and installed so that it is directed away from the roadway and any adjacent properties and does not interfere with the safe use of public rights-of-way.

(6) *Signs.* Signs shall be governed by the regulations contained in the sign regulations of the town except as modified below:

(a) *Outdoor advertising signs.* Outdoor advertising signs, commonly known as billboards, are prohibited.

(b) *Freestanding signs.* Each development parcel may include no more than one freestanding sign, which shall not exceed 70 square feet in size and 18 feet in height, measured from street grade, for each thoroughfare on which the site has driveway access. For purposes of this subsection, a development parcel shall include all out parcels associated with shopping centers and other multiple-business development sites.

(c) *Business identification signs.* Each business on a development parcel shall be entitled to install one or more business identification signs on the premises where the business is located so long as the total amount of such signage does not exceed one square foot for each linear foot of the front facade for that business, or 250 square feet, whichever is less. Such signs may be placed on the front wall of the business or on awnings, canopies or marquees attached to or closely associated with such facade. Any additional facade which has a door designed and used for public access may contain a business identification sign so long as the total amount of such signage does not exceed one square foot for each three linear feet of such facade frontage for that business, or 250 square feet, whichever is less. Also, in shopping centers, one suspended sign may be incorporated per business, which sign shall not exceed three square feet per face per sign.

(7) *Parking.* In consideration of the goals of this section and the increased landscaping requirements contained herein, the off-street parking requirements contained in § 152.093(E) may be reduced, at the discretion of the developer, by up to 20%.

(8) *Street trees.*

(a) Street trees shall be required at the rate of one large-maturing tree (35 feet in height) for every 50 linear feet of property abutting a street, or one small-maturing tree (25 feet in height) for every 40 linear feet of property abutting a street if overhead utility lines are present. Trees do not need to be spaced evenly. They may be clustered with a minimum spacing of 15 feet and a maximum spacing of 75 feet. Street trees shall be placed in a planting strip on private property and not within the street right-of-way.

(b) No street tree can be planted farther than 35 feet from the edge of the right-of-way to count as a street tree. The width of the planting strip may vary, but the minimum width cannot be less than seven feet and the average width shall be at least ten feet. The planting area must be covered with living material, including ground cover and/or shrubs, except for mulched areas directly around trees and shrubs, so that no soil is exposed. When a sidewalk is proposed to be constructed on a development site and right-of-way configuration requires that it be constructed on the developer's property, the width of the planting strip may be reduced to an average of seven feet. During the development review process, the approving authority for the town may permit minor deviations in the placement of trees in order to avoid conflict with utility structures and utility lines.

(c) Existing vegetation on a development parcel may count toward meeting the requirements of this section when such is in good condition and helps to further the purpose of the district.

(9) *Exceptions.*

(a) Single-family and two-family residential dwellings shall be required to comply with the provisions of (E)(1) through (E)(4), above, but they shall not be required to comply with the remaining regulations of the EC Entry Corridor Overlay Zoning Classification.

(b) Small lots, defined as lots with less than 100 feet of frontage on an entry corridor roadway or with less than 100 feet of depth, may have site constraints which make strict compliance with the regulations contained in this section a hardship. In such cases, the approving authority for the town may approve deviations from such regulations so long as the plans of development are consistent with the goals and objectives stated herein.
(Ord. passed 10-1-07)

§ 152.037 UV URBAN VILLAGE.

The UV Urban Village Zoning District Classification is intended to create mixed use development that is economically vital, pedestrian-oriented and contributes to the place-making character of the built environment. This classification offers the unique opportunity to provide quality and long-lasting retail, office and residential uses in an organized layout that encourages the full range of access by patrons and users, and offers innovative high-quality design of structures, public amenities and pedestrian facilities. The development and design standards set forth in this section are intended to accomplish the following purposes:

(A) Provide safe and convenient access to shopping and other essential services to pedestrians, bicyclists, transit riders, motorists, and persons with disabilities.

(B) Provide effective traffic flow through access management and improved internal and external connectivity.

(C) Create a built environment that serves to enhance gateway corridors, preserve historic heritage, promote economic development and an improved tax base for the city, and celebrate Franklin's distinction from other towns and cities.

(D) Promote sustainable use of limited land and investment resources through the following means:

(1) Encouraging higher building densities;

(2) Allowing efficient shared parking areas, making cost effective use of existing infrastructure;

(3) Showcasing innovative high-quality development;

(4) Providing adaptive reuse of under-performing retail properties;

(5) Ensuring multi-modal transportation access;

(6) Ensuring internal and external connectedness;

(7) Developing a durable framework of infrastructure and built structures that can accommodate future renovations; and

(8) Re-establishing the public realm, civic pride, and sense of community ownership in new developments.

(E) *Procedure.* The reclassification of property to UV Urban Village shall constitute an amendment of the zoning map which may be initiated only by the owner(s) of a legal interest in the affected property, any person(s) having an interest in the property by reason of a contract with the owner(s), or an agent authorized in writing to act on behalf of the owner(s).

(1) *Pre-application conference.* Every person proposing to apply for creation of a UV Urban Village District is required to meet with the Planning Director prior to the submittal of such application. This conference is intended to provide the applicant with an opportunity to discuss requirements, standards and procedures and to identify and solve potential problems for the proposed application. The applicant shall bring a sketch plan for the project showing, at a minimum, the location, the existing and proposed transportation network, phasing, general development plans and a written synopsis of the development proposal. The pre-application conference shall take place at least one week prior to submitting of an application to create an Urban Village District.

(2) *Application.* Creation of an urban village district shall be initiated by means of an application for rezoning to a UV Urban Village District and, at the same time, for a special use permit specifying the nature of the proposed development. The two applications shall be processed simultaneously in accordance with the provisions of § 152.053, herein. No land development permit shall be issued for any development within a UV Urban Village District except in accordance with an approved special use permit.

(3) *Master plan.*

(a) Applicants for creation of an urban village district project are required to submit a master plan for the entire development that indicates the following:

1. The general street network;

2. The proposed land use configuration within that network;

3. Phasing boundaries if phasing is proposed;

4. The ultimate proposed development intensity (including the number of residential units and gross square footage of all nonresidential uses) for the entire development and for each phase;

5. A conceptual landscape plan;

6. Proposed setback, height, signage, architectural and other design standards for the overall project and for proposed uses;

7. Building elevations or perspective drawings to demonstrate proposed building character; and

8. A conceptual stormwater plan for the development.

(b) For initiation of this zoning classification, properties may fall under more than one ownership so long as there exist covenants or other legally binding agreements that address cross-access, cross-parking and other similar issues affecting joint operation of the projects.

(c) *Traffic impact analysis.* A traffic impact analysis is required for all urban village projects and shall be submitted with the application to create the urban village.

(d) *Subsequent review.* After the establishment of the urban village district, individual development projects within the district shall be subject to development plan review in accordance with §§ 152.050 - 152.062. In addition to the development plan requirements contained in §§ 152.050 - 152.062, applicants shall comply with the design submittal requirements contained herein.

(e) *Modifications.* Revisions to approved urban village district master plans may be approved by Board of Aldermen or by the Town Administrator, or his or her designee, depending on the type of revisions being requested. The Board of Aldermen shall review any revisions to a master plan that increase the overall development intensity, change the proposed mix of uses by increasing or reducing any use category by 10% or more, or increases maximum building heights from that shown on the approved master plan. Additionally, the Board of Aldermen shall review any revision to a master plan that results in a decrease in the amount of perimeter open space or perimeter parking lot buffering, or in a 25% or greater reduction in the number of proposed blocks from that shown on the approved master plan. For the purpose of determining overall development intensity, one residential unit shall be regarded as the equivalent of 500 square feet of office floor area; one residential

unit shall be regarded as the equivalent of 200 square feet of commercial floor area; and 1,000 square feet of office space shall be regarded as the equivalent of 350 square feet of commercial. For other uses, the Planning Director shall determine the equivalency factor.

(F) *Permitted uses.* Unlike other planned development districts, the application for a special use permit for an urban village district is not required to specify intended uses other than the amount of retail or office space and the number of residential dwelling units. The applicant may, however, choose to limit such uses, to impose restrictions on those which are allowed, and to have such limitations and restrictions incorporated into the special use permit issued for the development. Unless limited as noted above, the following uses are permitted by right in the UV Urban Village Zoning District Classification, provided they meet all requirements of this section and all other relevant requirements of this chapter.

(1) Accessory dwelling units (SR).

(2) Accessory uses and structures.

(3) Adult day care centers registered with the NC Department of Human Resources.

(4) Adult day care homes.

(5) Animal hospitals and clinics as long as they contain no outdoor kennels.

(6) Banks and other financial institutions.

(7) Bed and breakfast facilities.

(8) Business services.

(9) Child care centers (SR).

(10) Child care homes.

(11) Civic clubs and fraternal organizations (SR).

(12) Cultural arts buildings.

(13) Dance, health and fitness facilities.

(14) Dry cleaning and laundry establishments containing less than 6,000 sq. ft. of floor area.

(15) Funeral homes.

(16) Governmental buildings.

(17) Home occupations (SR).

(18) Hotels and motels.

(19) Laundries, coin-operated.

(20) Lawn and garden centers.

(21) Live/work or mixed use buildings in which any of the business uses described above occur on the first floor and residential uses occur on upper floors.

(22) Minor planned residential developments, subject to the requirements of §§ 152.050 - 152.062.

(23) Music and art studios.

(24) Neighborhood community centers.

(25) Newspaper offices and printing establishments.

(26) Offices, business, professional and public.

(27) Parking lots and parking garages.

(28) Parks.

(29) Personal services.

(30) Places of worship.

(31) Public utility facilities (SR).

(32) Recreational facilities, indoors.

(33) Repair services, miscellaneous.

(34) Residential dwellings, single family.

(35) Residential dwellings, multi-family.

(36) Residential dwellings, two-family.

(37) Restaurants.

(38) Retail stores (not including automobile, manufactured home, farm equipment, gasoline, and boat and heavy equipment sales).

(39) Schools, business, technical and vocational.

(40) Schools, elementary and secondary.

(41) Signs.

(42) Theaters, indoors or outdoors but not including drive-in theaters.

(G) *Development standards.* Some development standards for the UV Urban Village District are specified in this chapter. Where no standard is specified, it is incumbent upon the applicant to propose development standards which, if the Board of Aldermen concurs, will be incorporated into the special use permit for the project. The following standards shall apply to development within the UV Urban Village Zoning District Classification.

(1) *Density.* Residential density for an urban village district shall be established by the Board of Aldermen in consideration of surrounding land uses and the existence of adequate public facilities. The maximum density which may be approved shall not be otherwise limited except by other standards such as building height, parking, landscaping and buffering, open space, and traffic impact.

(2) *Structure size.* The maximum size of any structure shall be established by the Board of Aldermen in the special use permit for the project.

(3) *Area.* The minimum area required to establish an urban village district is ten acres.

(4) *Lot size.* There is no minimum lot size required for an urban village district; although, the applicant may specify minimum standards in its development document.

(5) *Lot width.* There is no minimum lot width required.

(6) *Setbacks.* There are no minimum setback requirements within the Urban Village Zoning District Classification; provided, however, setbacks shall be established around the perimeter of the district sufficient to protect adjoining properties from the impacts of proposed development within the district.

(7) *Height.* There are no maximum height restrictions. The applicant shall propose minimum and maximum height restrictions for all building types and locations.

(8) *Design considerations.* Design is critical to the creation of an Urban Village District and to achieving the goals of this classification. The design considerations set forth in this section are intended in some instances to guide project design and in others to provide specific design requirements, and the text is intended to make this distinction clear. In general, the use of the term "shall" indicates a specific design requirement, whereas the term "should" indicates design guidance. In order to obtain a special use permit to develop an Urban Village, an applicant must demonstrate, among other things, that the design of the proposed development (1) meets the specific standards contained herein, (2) is generally in harmony with the design guidelines contained herein, and (3) will result in a development which is consistent with the purposes set forth herein.

(a) *General site arrangement.* Structures shall be placed and arranged so as not to adversely affect adjacent property. Adverse effects shall include, but are not limited to, the removal of lateral support on adjacent property, the creation of hazard, nuisance, danger, or inconvenience, or unreasonable loss of privacy. Development shall be arranged so as to be visually harmonious within the district. Insofar as is practicable, developments should be arranged so as to preserve or enhance vistas. Urban villages shall be oriented around one or more significant public spaces, such as parks or plazas.

(b) *Physical integration of uses.* All urban villages shall be designed and developed to provide an appropriate interrelationship between the various uses and structures within the development. Residential and commercial uses may be located within the same or adjoining structures.

(c) *Preservation of natural features and open space*. Permitted flexibility in lot sizes, setbacks, street alignments and widths, and landscaping shall be utilized to preserve natural features and drainage patterns and to provide open space.

(d) *Architectural character.* The rich architectural vocabulary of the Town of Franklin presents a wide variety of development opportunities using traditional forms while avoiding any perception of monotony. Each building proposed for an urban village district shall have a well-proportioned form consistent with the building use, and its construction materials. Materials shall be durable, attractive and compatible with the architectural vernacular of the region. Massing of the building(s) shall create a building envelope that reflects simple, clearly articulated building volumes.

(e) *Building orientation.* It is preferred that primary facades face the adjacent

street or significant public space. Apartment buildings and buildings containing commercial or institutional uses shall have a main entrance facing a connecting walkway with a direct, safe, pedestrian connection to the street. Where the main entrance

does not face the adjacent street, buildings shall nonetheless be designed to provide an attractive streetside facade.

(f) *Building placement.* Buildings shall be situated with regard to pedestrian and vehicular connectivity. Apartment buildings and buildings containing commercial or institutional uses should be located close to the pedestrian street with off-street parking behind and/or beside the building. Important mountain vistas and/or views of significant historic sites should be protected and accentuated.

(g) *Privacy considerations.* Elements of the development plan should be arranged to maximize the opportunity for privacy by the residents of the project and minimize infringement on the privacy of adjoining land uses.

(h) *Architectural details.* Architectural elements like openings, details, bulkheads, posts, and other architectural features shall be used to establish human scale at the street level. On corner lots, the applicant is encouraged to provide a building entry, additional building mass, and distinctive architectural elements at the corner of buildings. Windows, doors, columns, eaves, parapets, and other building components shall be proportional to the overall scale of the building. Windows shall be vertically aligned wherever practical. The appearance of all exposed facades (not just the streetside facade) is important and shall be addressed in development design.

(i) *Building walls.* Buildings shall avoid long, monotonous, uninterrupted walls or roof planes on their visible facades. It is preferred that this design goal be achieved by means of building wall offsets, including projections, recesses, and changes in floor level, and roofline offsets. Such offsets add architectural interest and variety and can assist in creating human size proportions. Parapets shall be designed as integral to the mass of the building. When multiple wall materials are combined on one facade, the designer is encouraged to place the heavier material(s) below.

(j) *Building entrances.* All buildings should include well-defined entrances facing the street at regular intervals. An operable entrance on each primary facade should be provided to encourage access by pedestrians. For buildings on corner lots, an entrance may be placed at the corner, thereby eliminating the need for side entrances.

(k) *Internal access and connectivity.* The site shall be traversed by a network of internal streets built according to city standards. Internal streets should seek to avoid cul-de-sacs and dead end roads and other features that hamper connectivity. However, roads may terminate at a monumental structure or green space. In such cases a sidewalk or other connection must be provided to ensure the goals of connectivity. In addition, internal streets are also required to have sidewalks and street trees. If a bus line serves, or is expected to serve, the district, a bus shelter is required. Larger projects may require more shelters as determined by traffic impact analysis. Connectivity is a goal of the internal street system and external connections to areas outside and adjacent to the urban village should be created where possible. Only one driveway per block face is allowed. Detached single-family housing and duplex housing are exempt from the driveway restriction. Parking access from alleyways, however, is encouraged.

(l) *Block length.* Block length may vary but shall not exceed 500 feet in length. For blocks on local streets that are 350 feet or longer, a mid-block pedestrian street crossing is required which may also include a parking lot driveway and/or pedestrian passageway between two or more buildings, and shall have curb extensions (bulb-outs) for ease and safety of pedestrian street crossing. Collector streets may also require mid-block pedestrian crossings as noted above.

(m) *Pedestrian zone and sidewalks.* The pedestrian zone is the area between the street curb and the building edge or, for access roads, the street curb and the right-of-way area. The pedestrian zone includes sidewalks, street trees and other pedestrian amenities. The pedestrian zone will generally be 15 feet wide but may be wider depending on the setback pattern. Sidewalks in urban village districts shall be required along one side of access streets and both sides of internal streets throughout the development. If appropriate to the design of the village, greenway paths may be substituted for sidewalks in residential areas to provide connections. The sidewalk shall be a minimum of seven feet wide in the Urban Village Zoning District Classification. In solely residential areas containing less than eight units per acres, sidewalks are only required to be five feet wide. With institutional and public uses that have an increased setback, a sidewalk shall connect the building facade entrance with the street. The sidewalk may be as wide as the entire pedestrian area. Arcades, awnings, outdoor dining, shelters, seating areas, fountains, street trees, additional landscaped areas and other pedestrian amenities may be a part of this pedestrian area so long as seven feet of clear walking space is maintained. The pedestrian area may also be used to create an area for waiting, pick-up and drop-off. At locations such as

intersections and other crosswalks, curb extensions (bulb-outs) are required to create safer pedestrian crossings.

(n) *Parking/loading standards.* Parking and loading facilities shall be reviewed at the master plan level. The applicant shall demonstrate that the amount of parking proposed is adequate to serve the needs of the district and is located and designed in such a fashion that it does not detract from the overall appearance of the district or unreasonably interfere with pedestrian activity.

1. *Amount of parking.* Owing to the possibilities for shared use of parking, the number of parking spaces in the urban village district should not exceed the minimum parking requirements for the district computed by means of the formulas contained in (D)(8)(n)3.

2. *On-street parking.* On-street parking is required for all local streets and for collector streets and shall count toward meeting parking needs for the district. On-street parking may take the form of parallel or angle parking and shall be built according to city standards.

3. *Off-street parking.* Applicants for rezoning to the UV Urban Village Zoning District Classification shall propose a master parking plan which shall provide sufficient parking for the entire project consistent with requirements of this section. Off-street parking lots are encouraged to be provided at the side or rear of buildings or the interior of a block of buildings and not closer to the street than the edge profile of the structures. No more than 20% of parking that is provided in an urban village district may be in the form of stand-alone surface lots not located to the side or rear of buildings. Off-street parking shall not be adjacent to street intersections. No parking is permitted in any setback area. Individual uses in the urban village district are not required to provide off-street parking or loading.

4. *Loading standards.* Urban village districts may share off-street loading facilities and are therefore allowed to provide these facilities at half the rate listed for the applicable uses. On-street loading spaces may be counted towards the project loading requirements.

(o) *Street trees.* Street trees are required in the pedestrian zone and along access roads at an average of one tree every 30 feet for mid-story and under-story trees, and one tree for every 40 feet for canopy trees. In selecting street trees, priority should be given to long-lived species proven to function well in urban settings with a form and branching pattern compatible with the space and type of adjacent traffic. Trees may be planted in minimum six-foot by six-foot pits. Tree frames and grates are not required but are recommended especially near store entrances, other sidewalk constraints, points of ingress, egress or public gathering areas. If tree grates are not used, an organic surfacing material shall be used to level the surface of the tree pit with the sidewalk. This material shall receive regular maintenance. To offer flexibility in the tree planting requirement, trees may be planted in planting strips adjacent to the curb edge of the sidewalk. Planting strips shall be no narrower than six feet wide. Planting strips may include grass, flowers and other plant material where appropriate. Planting strips may not be appropriate in pedestrian gathering areas.

(p) *Landscape/buffering standards.* Landscaping and buffering shall be in accordance with §§ 152.170 - 152.179 except as noted herein. Parking lots shall include interior and perimeter tree plantings made up of deciduous trees at a rate of one tree for every 1,500 square feet of vehicular use area. No parking space may be farther than 45 feet from a tree. No shrubs are required for interior plantings for parking lots that are behind, to the side or located at the interior of the block of buildings. Parking areas adjacent to roadways require buffering from the street as specified in §§ 152.170 - 152. 179 with the exception that the planting area will be eight feet wide. Stand-alone parking lots shall comply with all applicable landscape and buffering standards except that trees shall be provided at a rate of one tree for every 1,500 square feet of parking and parking spaces shall be no further than 45 feet from a tree. Shrubs are also required as per the regular schedule. Landscaped islands within parking lots should be a minimum of 162 square feet in area with a minimum width of eight feet if they are to include tree plantings. Residential structures within an urban village may have up to a 100% reduction in buffering requirements from the rest of the urban village. Buffering for urban village district projects is measured and reviewed from the parcel lot lines used to establish the district and not on an internal lot by lot basis.

(q) *Open space standards.* Functional open space enhances circulation within a site and contributes to the site's aesthetic qualities. All open space should be designed to be accessible and usable for occupants and invitees of the development. An urban village district shall have an open space ratio of not less than 0.30. Open space includes any portion of the site not covered by a building or vehicular use area and any common space meeting the standards listed in the subsection below.

(r) *Common space standards.* Common space is intended to shape the design and character of a project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. It shall be designed to create areas where workers, residents and shoppers, as the case may be, are directly or indirectly invited to gather, browse, sit, interact or congregate. It shall be arranged as community space with open areas, landscaping, seating facilities and lighting fixtures which provide for safety and visual effects. Common spaces are intended to be places for social interaction and, thus, may include impervious surfaces. Unless interior common space is approved by the reviewing authority, common space shall be out-of-doors. Common space design shall comply with the following:

1. *Size.* At least 10% of the acreage of a site shall be devoted to common space. Common space shall count toward meeting open space requirements for a project.

2. *Trees.* One tree shall be planted for each 500 square feet of common space. Trees shall have a minimum caliper of three to three and one-half inches measured six inches above ground at the time of planting.

3. *Utilities.* All utilities service lines and connections shall be underground.

4. *Seating.* Seating shall be provided to accommodate workers, residents, and/or shoppers. Seating may be accomplished in whole or in part using planters or other similar structures.

5. *Amenities.* Common space for a development shall include two or more of the following amenities: ornamental fountains, stairways, waterfalls, public art, arbors, trellises, planted beds, drinking fountains, clock pedestals, public telephones, awnings, canopies, informational kiosks, and similar structures.

(s) *Stormwater treatment.* Applicants shall propose, install and maintain a stormwater treatment system for the district which, at a minimum, meets the requirements contained in §§ 152.190 - 152.199. Applicants are encouraged to utilize best management practices, such as green roofs, stormwater gardens, and the like, to develop a system which treats stormwater efficiently and effectively, and which does not detract from the appearance of the district.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.038 TN TRADITIONAL NEIGHBORHOOD OVERLAY.

(A) (1) The Traditional Neighborhood Overlay Zoning District Classification is primarily intended to allow the development of residentially zoned areas as traditional neighborhood developments ("TNDs") exhibiting the characteristics of TNDs appropriate to their urban context. Thus, the application of this overlay should result in a development utilizing elements appropriate for its relationship to the surrounding and nearby uses and oriented to pedestrians. Pedestrian orientation should be achieved using, among other techniques, the following:

(a) By providing safe walking conditions which can be achieved through: the reduction of street widths and turning ratios from those conventionally utilized, encouraging parking along streets in order to slow traffic and protect pedestrians, providing mostly alley access to uses to reduce vehicular/pedestrian conflicts and bringing dwellings closer to the street;

(b) By providing walking destinations within the typical range of pedestrians in the form of civic buildings and spaces such as parks and limited commercial areas meeting residents' daily needs; and

(c) By providing enjoyable walking environments, by reducing the amount of parking in the fronts of sites and providing for a streetscape appropriate in scale and design for pedestrian use.

(2) The types of uses allowed and the standards established for development in this zoning classification should be compatible with the residential character of the area, and the uses should not cause traffic congestion, obnoxious noise, dust, odors, fire hazards or lighting objectionable to surrounding residences, nor visually detract from the overall appearance of the neighborhood.

(B) *Application of overlay zone.*

(1) *Area.* In order to achieve the desired intent of the overlay, it shall not be applied to any area less than 20 acres in size unless the applicant can show that the area surrounding the proposed area of application, when taken into account with the proposed area of application, meets the intent of these overlay regulations.

(2) *Density bonus.* When an area qualifies for designation as a Traditional Neighborhood Overlay Zone, then it shall be entitled to residential density equal to the density of the underlying zone

plus 75% if it is within one-half mile walking distance of a business district or 25% if it is not. Commercial uses, including their required on-site parking, shall not exceed 20% of the project area.

(3) *Densities.* The specific residential and commercial densities of the TN zoning district shall be set forth in the regulating plan and neighborhood code submitted as part of the application for the approval of application of the Overlay Zone. The regulating plan shall be a conceptual plan providing for the general location of civic, commercial and residential uses, as well as throughways, alleys and any other significant features of the proposed project. The neighborhood code shall set forth the design and architectural regulations of the project, including without limitation:

(a) The amount of residential and commercial use allowed in the project;

(b) The types of residential, commercial, mixed-use and civic buildings and uses permitted;

(c) The types and dimensions of streets and thoroughfares, together with their turning ratios, sight triangles, parking, street tree and lighting configurations;

(d) The dimensions of permitted buildings, their lot sizes, setbacks, building lines and heights;

(e) Any intrusions permitted in required yards;

(f) The location of required parking areas according to building types as well as landscape and signage elements of the project; and

(g) The architectural standards to be applied within the project.

(4) *Controls.* Subject to any specific standards and limitations set forth in these Traditional Neighborhood Overlay regulations, the approved provisions of the regulating plan and the neighborhood code (to the extent they address the criteria described in this section shall control the project in lieu of the regulations set forth in this chapter).

(5) *Approval.* The provisions of this Overlay Zone shall apply only when specifically approved for a specific property by the Board of Aldermen.

(C) *Use regulations.*

(1) In areas subject to the Traditional Neighborhood Overlay Regulations, no building or land shall be used and no building shall be hereafter erected or structurally altered unless otherwise provided in this chapter except for the following uses and only when complying with all sections of this chapter, including definitions:

(a) Any use permitted in the R-1 Zoning District Classification shall be permitted in the TN Traditional Neighborhood Overlay Zoning District Classifications.

(b) Offices, financial, including banks, governmental, and professional.

(c) Art studios and galleries, craft, antique and book shops.

(d) Services, personal, business, and repair.

(e) Retail sales, including convenience stores without petroleum dispensing.

(f) Live/work or mixed use buildings in which any of the business uses described above occur on the first floor and residential uses occur on upper floors.

(g) Accessory uses and/or structures.

(2) Commercial establishments within this Overlay Zone shall not open to the public before 7:00 a.m. nor remain open to the public after 10:00 p.m. daily. Any establishment operating in this Overlay Zone shall maintain and/or store all equipment or goods related to the business within the principal building except for displays in the front yard or sidewalk that do not interfere with the flow of sidewalk traffic nor endanger the public.

(D) *Dimensional requirements.*

(1) Minimum front yard requirement - 0 feet. The minimum front yard setback from any street shall be measured from the nearest edge of the right-of-way.

(2) Minimum rear yard requirement - 0 feet.

(3) Minimum side yard requirements - two side yards totaling at least ten feet with one side

not less than five feet and no buildings closer than ten feet. On all corner lots, the side yard adjacent to the street shall be adequately sized to allow for appropriate traffic sight triangles.

(4) Maximum building height - the greater of three stories (not to exceed 14 feet each, with space within one story able to intrude through other stories) together with a roof of reasonable proportions and an elevation of not more than four feet before the first floor or 35 feet.

(5) Minimum lot size - none.

(6) Setbacks for commercial use properties adjoining residential uses not subject to this Overlay Zone shall provide for a minimum of a ten-foot setback along any side abutting a Residential District in which is located a buffer strip as defined in § 152.175.

(E) *Design and appearance standards.* All development subject to the Overlay Zone shall conform to the following design and appearance standards.

(1) *Outdoor lighting.* Outdoor lighting fixtures other than street lights shall be designed and located so as to prevent material quantities of light from shining directly on vehicular traffic or adjoining property. Lighting shall generally be downward directed or shielded to help protect the night sky.

(2) *Landscaping.* A minimum of 20% of the lot area, excluding paved or unpaved parking areas, shall be reserved and developed only for yard, landscaping, plaza, courtyard patio or similar uses. The landscaping may include existing vegetation. The property owner shall be responsible for the maintenance of the landscaping and the replacement of all dead plant material. Street trees shall be incorporated in the landscaping for property abutting public rights-of-way. The trees shall be deciduous and be maintained, and all dead materials shall be replaced by the next growing season.

(3) *Design.* All new construction and renovation within this Overlay Zone is encouraged to conform to the following standards: where possible, the project should use indigenous materials of the region, including stone and wood. Buildings, structures and grounds shall be designed using materials, finishes and proportions in a manner that will produce a coordinated appearance with adjacent properties.

(4) *Off-street parking.* Adequate off-street parking shall be provided. Residential uses shall meet the same requirements as provided in § 152.093. Business uses shall provide at least one space for each employee, plus one parking space per 200 square feet of business or office floor space. In determining whether a use meets the parking requirements set forth herein, any parking space located along the street and contiguous to the lot of such use may be counted toward the satisfaction of such use's parking requirements up to one half of such requirements. Spaces that straddle property lines shall count toward the lot fronting the majority of the space unless this would render the other lot without street parking.

(5) *Signage.* Signs shall be in compliance with the Town of Franklin Sign Regulations (Chapter 155) except that commercial uses with their parking behind their building shall be allowed twice the area of signage normally allowed provided not more than one-half of the signage is located at the rear of the building and designed and positioned only to be seen from such parking area. Commercial uses shall be allowed to use the signage permitted for non-residential uses in residential developments, provided that the dimensions of the free-standing sign permitted herein shall be added to those permitted in attached signs and may be utilized in attached signs (perpendicular or parallel to the building) or awning signs. Free-standing, detached signs are not allowed in the Overlay Zone. Temporary sandwich board signs advertising restaurant menus are permitted in the Overlay Zone immediately in front of the restaurant served thereby, provided that they do not interfere with use of the sidewalk nor endanger the public.

(F) *Additional standards.*

(1) *Access.* Alleys can provide the principal means of access to lots fronting streets as well as lots fronting mews or courtyards, provided the mews or courtyard has not less than 20 feet of street frontage.

(2) *Buffers.* No buffers shall be required between commercial and residential properties within the Overlay Zone.

(3) *Roadways.* Street and thoroughfare layout, width and design shall be as approved in the Regulating Plan and Neighborhood Code, provided that where compliance with NCDOT regulations is required for acceptance of a public road by NCDOT

and such road is intended to be so dedicated, then such road will be constructed to standards of NCDOT applicable to traditional neighborhood development and to the extent permitted by law will recognize the equal or primary role of the pedestrian.

(4) *Easements.* Easements for utilities for projects within the Overlay Zone shall be located in alleys and within the street right-of-way where practicable and shall be the minimum width practicable for safe and appropriate installation, service, and replacement thereof.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.039 PRD PLANNED RESIDENTIAL DEVELOPMENT.

This classification is designed to accommodate planned residential developments for which a special use permit has been issued in accordance with § 152.053 herein. Such special use permit is required as a prerequisite to any use or development in the PRD Zoning District Classification, and no use shall be permitted except pursuant to such permit. Such permit shall insure that the proposed use or development is consistent with the requirements of this section and may further specify the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request. In granting the special use permit for a planned residential district, the Board of Aldermen may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this chapter are served, public welfare secured and substantial justice done.

(A) *Application.* The reclassification of property to PRD Planned Residential Development District shall constitute an amendment of the Official Zoning Map which may be initiated only by the owner(s) of a legal interest in the affected property, any person(s) having an interest in the property by reason of a written contract with the owner(s), or an agent authorized in writing to act on behalf of the owner(s). Such amendment shall be initiated by means of an application for rezoning to a PRD planned residential development district and, at the same time, for a special use permit specifying the nature of the proposed development. The two applications shall be in accordance with § 152.053. No permit shall be issued for any development within a PRD planned residential development district except in accordance with an approved special use permit.

(B) *Permissible uses, subject to issuance of a special use permit.*

(1) Accessory uses and/or structures.

(2) Accessory dwelling units (SR).

(3) Adult day care centers registered with the NC Department of Health and Human Services Adult day care homes.

(4) Agriculture.

(5) Cemeteries.

(6) Child care homes.

(7) Child day care centers (SR).

(8) Golf courses.

(9) Golf driving ranges.

(10) Home occupations (SR).

(11) Manufactured homes.

(12) Parks.

(13) Places of worship.

(14) Planned residential developments (major).

(15) Public utility facilities (SR).

(16) Residential dwellings, multi-family.

(17) Residential dwellings, single-family.

(18) Residential dwellings, two-family.

(19) Schools, elementary and secondary.

(C) *Site requirements.* Planned residential development districts shall have the following site requirements: (1) the total land area of the district shall be at least three acres; and (2) access to the planned residential development shall be by means of a thoroughfare (major or minor) designated as such on the current Franklin Thoroughfare Plan. Alternatively, access may be provided by means of streets other than major or minor thoroughfares when it is clearly demonstrated that the planned residential development will not result in a significant increase in traffic on any such street.

(D) *Density.* The density for a planned residential development shall be established by the Board of Aldermen in consideration of surrounding land uses and the existence of adequate private and public facilities, including without limitation, water, wastewater, solid waste, stormwater, roads and parks, to serve the development. Unless a planned residential development qualifies for a density bonus as provided in division (E) below, the density authorized for the district shall not exceed ten units per acre.

(E) *Density bonus.* One or more density bonuses, over and above the maximum density specified in division (D) above, may be approved by the Board of Aldermen only upon determining that the proposed planned residential development complies with the general considerations listed therein, as well as the following additional considerations:

(1) *Affordable housing bonus.* A density bonus of four dwelling units per acre may be awarded provided that such additional dwelling units shall be affordable housing as defined by the North Carolina Housing Authority.

(2) *Walkability bonus*. A density bonus of four dwelling units per acre may be awarded for developments which are situated within reasonable walking distance of places of employment and/or shopping facilities and which provide pedestrian amenities in order to foster pedestrian access to such facilities.

(F) *Development standards.* Except as modified herein, all uses and structures in the PRD Zoning District Classification shall meet the development standards for planned residential developments contained in § 152.057, below.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.040 PCD PLANNED COMMERCIAL DEVELOPMENT.

This classification is designed to accommodate the development of shopping centers and retail establishments larger than 30,000 square feet of floor area or which contain commercial uses which are proposed to be developed in conjunction with residential uses. A special use permit, issued in accordance with § 152.053, below, is required as a prerequisite to any use or development in a PCD District, and no use shall be permitted except pursuant to such permit. Such permit shall insure that the proposed use or development is consistent with the requirements of this section and may further specify the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request. In granting the special use permit for a planned commercial development district, the Board of Aldermen may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this chapter are served, public welfare secured and substantial justice done.

(A) *Application.* The reclassification of property to PCD Planned Commercial Development shall constitute an amendment of the Official Zoning Map which may be initiated only by the owner(s) of a legal interest in the affected property, any person(s) having an interest in the property by reason of a written contract with the owner(s), or an agent authorized in writing to act on behalf of the owner(s). Such amendment shall be initiated by means of an application for rezoning to a PCD Planned Commercial Development District and, at the same time, for a special use permit specifying the nature of the proposed development. The two applications shall be processed simultaneously in accordance with the provisions of § 152.053. No land development permit shall be issued for any development within a PCD Planned Commercial Development District except in accordance with an approved special use permit.

(B) *Permissible uses, subject to issuance of a special use permit.* A building or land shall be used only for those purposes specified in the special use permit for the project which may include one or more of the following:

(1) Accessory uses and structures.

(2) Adult day care centers registered with the NC Department of Health and Human Services.

(3) Animal boarding facilities.

(4) Assisted living facilities.

(5) Automobile car washes.

(6) Automobile sales and service establishments.

(7) Banks and other financial institutions.

(8) Bed and breakfast facilities.

(9) Business services.

(10) Child care center (SR).

(11) Civic clubs and fraternal organizations.

(12) Construction trades facilities.

(13) Dance and fitness facilities.

(14) Dry cleaning and laundry establishments.

(15) Farm and construction equipment sales and service.

(16) Food processing establishments.

(17) Funeral homes and crematoria.

(18) Golf courses.

(19) Golf driving ranges.

(20) Home occupations (SR).

(21) Hotels and motels.

(22) Laundries, coin-operated.

(23) Manufactured homes and recreational vehicle sales.

(24) Mini-warehouses.

(25) Music, art studios and galleries.

(26) Newspaper offices and printing establishments.

(27) Offices, business, financial, including banks, governmental, and professional.

(28) Parking lots and parking garages.

(29) Parks, public, including greenways.

(30) Personal services.

(31) Places of worship.

(32) Planned residential developments.

(33) Public utility facilities (SR).

(34) Recreational facilities, indoors.

(35) Recreational facilities, outdoors, commercial.

(36) Repair services, miscellaneous.

(37) Residential dwellings, single-family, two-family and multi-family.

(38) Restaurants.

(39) Restaurants, drive-in.

(40) Retail sales.

(41) Service stations.

(42) Wholesale sales, distribution and warehousing.

(C) District requirements. Primary vehicular access for a PCD Planned Commercial Development district shall be by means of a major or minor thoroughfare designated as such on the current City Thoroughfare Plan. Alternatively, access may be provided by means of streets other than major or minor thoroughfares when it is clearly demonstrated that the development will not result in a significant increase in traffic on any such street.

(D) Development standards. All uses and structures in the PCD Zoning District Classification shall meet the following development standards:

(1) *Setbacks.* All buildings and structures shall be set back not less than 40 feet from the nearest right-of-way line for any street adjoining the site; provided, however, such setback may be reduced to ten feet when parking is situated to the side or rear of the lot and screened from view from public rights-of-way. Furthermore, such buildings and structures shall be set back not less than 25 feet from any exterior property line, which is not contiguous with a street or other right-of-way.

(2) *Parking, driveways, and loading areas.* Off-street parking, driveways, and loading areas shall be provided as required in §§ 152.090 - 152.105, below, and shall be paved according to the specifications of the NCDOT.

(3) *Buffering and landscaping.* The applicant shall propose, plant, construct, and make satisfactory arrangements for the preservation of a buffer and/or setbacks adequate to protect adjoining properties from the impacts of the proposed development. Such buffers, at a minimum, shall meet the requirements of §§ 152.170 - 152.179. Any part of

the project area not used for buildings or other structures, loading and access ways shall be left in a natural state or landscaped with grass, trees, and shrubs.

(4) *Building height.* The maximum height of any building in the district shall be 48 feet.

(5) *Circulation and access.* Streets, drives and parking areas in a planned commercial development shall provide safe and convenient access to appropriate project facilities. Sidewalks shall be included to provide a logical, safe, and convenient system for pedestrian access to appropriate project facilities. Greenways or pedestrian/bicycle pathways may be substituted for sidewalks, if appropriate. Sidewalks meeting the town's sidewalk standards shall be provided along all public streets and roads in accordance with §§ 152.090 - 152.105.

(6) *Density.* The density for a residential development planned as part of a PCD Planned Commercial Development district shall be established by the Board of Aldermen in consideration of surrounding land uses and the existence of adequate private and public facilities, including, without limitation, water, wastewater, solid waste, stormwater, roads and parks, to serve the development. A planned commercial development may qualify for a density bonus in the manner specified in § 152.039(E). Otherwise, the density authorized for the district shall not exceed ten units per acre.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.041 PMH PLANNED MANUFACTURED HOUSING DEVELOPMENT.

This classification is designed to accommodate planned manufactured housing developments for which a special use permit has been issued in accordance with § 152.053, herein. Such special use permit is required as a prerequisite to any use or development in the PMH District, and no use shall be permitted except pursuant to such permit. Such permit shall insure that the proposed use or development is consistent with the requirements of this section and may further specify the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request. In granting the special use permit for a planned manufactured housing district, the Board of Aldermen may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this chapter are served, public welfare secured and substantial justice done.

(A) *Application.* The reclassification of property to PMH Planned Manufactured Housing District shall constitute an amendment of the Official Zoning Map which may be initiated only by the owner(s) of a legal interest in the affected property, any person(s) having an interest in the property by reason of a written contract with the owner(s), or an agent authorized in writing to act on behalf of the owner(s). Such amendment shall be initiated by means of an application for rezoning to a PMH Planned Manufactured Housing district and, at the same time, for a special use permit specifying the nature of the proposed development. The two applications shall be processed simultaneously in accordance with the provisions of § 152.053. No permit shall be issued for any development within a PMH Planned Manufactured Housing district except in accordance with an approved special use permit. In addition to the requirements for a planned development application contained in §§ 152.120 - 152.123, the application for a special use permit for a planned manufactured housing district shall contain a site plan depicting the location and dimensions of all proposed manufactured home sites.

(B) Permissible uses, subject to issuance of a special use permit. A building or land shall be used only for those purposes specified in the special use permit for the project which may include the following:

(1) Accessory uses and structures.

(2) Adult day care centers registered with the NC Department of Human Resources.

(3) Adult day care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling.

(4) Child care centers (SR).

(5) Child care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling.

(6) Home occupations (SR).

(7) Manufactured homes.

(8) Mobile homes.

(9) Parks, public, including greenways.

(10) Places of worship.

(11) Public utility structures (SR).

(C) *District requirements.* A planned manufactured housing district shall be at least three acres in area and shall not exceed 15 acres in area. Any district containing 26 or more sites shall have primary vehicular access to the development by means of a subcollector classification or larger street designated in § 152.098. Primary vehicular access for a planned manufactured housing development of 25 units or less shall be by means of a local classification or larger street as designated in § 152.098. Alternatively, access may be provided by means of streets other than local or subcollector classification when it is clearly demonstrated that the development will not result in a significant increase in traffic on any such street.

(D) *Development standards.* All uses and structures in a PMH district shall meet the following development standards:

(1) *Lot size.* Each manufactured home shall occupy a designated space having at least 4,000 square feet, with a width of at least 40 feet, exclusive of common driveways. No more than one home may be erected or installed on one space.

(2) *Streets.* Each manufactured home space shall abut a street within the park. Said streets shall be graded and surfaced with not less than four inches of crushed stone or other suitable material on a well compacted sub-base to a continuous width of 25 feet, exclusive of required parking spaces. Internal streets and circulation patterns shall be adequate to handle the traffic to be generated by the development.

(3) *Parking.* One off-street parking space with not less than four inches of crushed stone or other suitable material, on a well compacted sub-base, shall be provided for each manufactured home space. The required parking space may be included within the 4,000 square foot minimum lot size for a manufactured home.

(4) *Recreation space.* At least 8% of the total area of a planned manufactured housing district shall be devoted and developed to recreational use by the residents of the district. Such use may include space for community buildings, gardens, outdoor play areas, swimming pools, ball courts, etc.

(5) *Interior setbacks.* Any structure shall be located at least 20 feet from any internal street and at least ten feet from any adjacent space within the district; provided, however, that these interior setbacks shall not apply to storage or other auxiliary structures for the exclusive of a manufactured home.

(6) *Exterior setbacks.* No manufactured home shall be located closer than 30 feet to the exterior boundary of the district or abutting street right-of-way. Buildings used for laundry or recreation purposes shall be located no closer than 40 feet to the exterior boundary or the right-of-way of an abutting street.

(7) *Density.* The overall density of homes within the district shall not exceed eight units per acre.

(8) *Utilities.* Each lot or space shall be equipped with electricity, drinking water, and wastewater disposal facilities.

(9) *Foundations, patios and walkways.* Each home shall be placed on a permanent stand in accordance with standards set by the North Carolina Department of Insurance. Each home shall have an area on site for provision of a permanent patio or deck adjacent or attached to the permanent stand of at least 180 square feet. A walkway shall be constructed for each lot or space to connect parking spaces to the manufactured home entrance. An attached structure such as an awning, cabana, storage building, carport, windbreak, or porch, which has a floor area larger than 25 square feet and is roofed shall be considered part of the stand for purposes of all setback requirements. The area beneath a home must be fully enclosed with durable skirting within 60 days of placement in the district. As a minimum, such skirting must be a product designed and sold for use as skirting or as approved by the Zoning Administrator.

(10) *Buffers.* The applicant shall propose, plant, construct and make satisfactory arrangements for the preservation of a buffer and/or setbacks adequate to protect adjoining properties from the impacts of the proposed development. Such buffers shall, at a minimum, meet the requirements of §§ 152.170 - 152.179, below.

(11) *Structure height.* No structure in a PMH Planned Manufactured Housing district shall exceed 35 feet in height.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

DEVELOPMENT REVIEW

§ 152.050 PURPOSE AND STRUCTURE.

It is the intent of this subchapter to provide the process by which proposed development is reviewed and the standards by which it is to be evaluated. All development shall require prior authorization from the appropriate person or entity. This subchapter establishes two levels of review: (1) development plan review, which applies to most development, subdivisions, and land use activities, is set forth in § 152.052; and (2) special use review, which is designed for development expected to have the greatest impacts, is set forth in § 152.053. The remaining sections of this subchapter contain requirements which apply to one or more of the levels of review.
(Ord. passed 10-1-07)

§ 152.051 LAND DEVELOPMENT PERMIT REQUIRED.

A land development permit, in conformance with the provisions of this subchapter, is required prior to the commencement of any development, subdivision, or land use activity. A land development

permit shall not be issued until development plans and necessary additional information demonstrate full compliance with this subchapter. When a building permit or sign permit is required, such permit shall not be issued prior to issuance of the land development permit required for the development, and such building or sign permit shall comply with the approved land development permit, including all conditions of approval attached thereto. No building or structure for which a land development permit has been issued shall be used or occupied until, after final inspection, a certificate of occupancy has been issued indicating compliance with the provisions of this subchapter and all other state and local laws, including conditions of the land development permit. Review and issuance of land development permits is a function of the Land Use Administrator or his or her designee.
(Ord. passed 10-1-07)

§ 152.052 DEVELOPMENT PLAN REVIEW.

(A) Development plan review and approval in accordance with this section is required prior to issuance of a land development permit for any development, subdivision or land use activity except for projects required by this subchapter to undergo special use review pursuant to § 152.053, below. The Land Use Administrator is authorized to relax the submittal requirements for certain development activities described below so long as the purposes and goals of this subchapter are not compromised and so long as such requirements are contained in an administrative order and made readily available to the public. The land use activities for which relaxed submittal requirements are permissible are as follows:

(1) Development of a single- or two-family dwelling on a zoning lot, or any uses accessory thereto;

(2) Any commercial, industrial, or institutional development consisting of less than 5,000 square feet of floor area;

(3) Addition of not more than 15% of previously existing parking spaces, or ten parking spaces, whichever is greater;

(4) Any sign;

(5) Any subdivision of a tract of land of five acres or less into five or fewer lots and involving no new public or private streets or roads, right-of-way dedication, easements, or utility extensions.

(B) *Applications.* There are two types of development plan review, preliminary and final, as described below. All applications for development plan approval shall be made to the Land Use Administrator on such forms as he or she may prescribe. Applications shall include, without limitation, the name and address of the applicant, the name and address of the owner of all the property involved, the relationship of the applicant and property owner(s) in connection with the application, and a development plan conforming to the specifications of division (D). If the applicant is other than the record owner of the property, the consent of the record owner to the application shall be noted on the application or in some other fashion acceptable to the Land Use Administrator. The application shall also designate an agent for the project to whom notice may be given by the town. The Land Use Administrator shall prescribe any other material that may reasonably be required to determine compliance with this subchapter and shall require sufficient copies for necessary referrals and records.

(C) *Fees.* A fee shall be paid to the Town of Franklin for each application for development plan approval to cover the costs of advertising and other administrative expenses. Such fee shall be set by a resolution of the Board of Aldermen.

(D) *Review of preliminary development plans.* Preliminary development plan approval is not required under this subchapter. It is recommended for large or complicated projects where the costs of developing detailed final plans can be substantial. It is designed to provide the applicant an opportunity to obtain at a reasonable cost binding authorization to develop property in a certain fashion. Review of preliminary plans is a function of the Land Use Administrator.

(1) *Processing of applications for preliminary development plan approval.* The Land Use Administrator shall conduct a preliminary review of an application to determine if it is complete, which is to say, all information requested on the application has been provided and the development plan contains all items required by division (D)(2)(a). If the Land Use Administrator determines that an application is incomplete, he or she shall notify the applicant in writing of all deficiencies. Once the Land Use Administrator determines the application to be complete, he or she may request an analysis to be made by qualified representatives of the town and such other agencies or officials as appear appropriate in the circumstances of the case, to determine compliance with applicable provisions of this chapter.

(2) *Contents of preliminary development plan.*

(a) Applicants for developments opting to undergo preliminary development plan review shall, as a part of the application for such development, submit a preliminary development plan which shall show the following:

1. The date of the development plan or submittal, including any revisions thereto.

2. The proposed title of the project and the name of the engineer, architect, landscape architect, planner and/or licensed surveyor; developer; and owner of record.

3. The north arrow point, scale at not greater than one inch equals 40 feet and such information as the names of adjacent roads, streams, railroads, subdivisions or other landmarks sufficient to clearly identify the location of the property.

4. Location of site by an insert vicinity map at a scale no less than one inch equals 2,000 feet.

5. Existing project zoning and zoning of adjacent property, to include properties abutting either side of a public right-of-way.

6. Town limits line, and/or extraterritorial jurisdiction boundary, or a note indicating that the project site and any adjoining parcels are totally within or without the town limits.

7. Names of adjacent property owners.

8. Boundary survey of site and the location of all existing easements, buildings, rights-of-way or other encroachments.

9. Location of 100-year floodplain and floodway, if applicable. Other significant natural features affecting the site including but not limited to wetlands, major rock outcrops and lakes or streams.

10. The proposed transportation network for the project including, but not limited to, the following:

a. All proposed streets, clearly identified as public or private, with proposed names, pavement widths and rights-of-way;

b. Sight distances for all entrances and exits and their relationship to street and driveway intersections within a 200-foot radius of the intersection of such entrance and exit with any public right-of-way;

c. All alleys, driveways, and curb cuts;

d. All handicap ramps;

e. Off-street loading and unloading areas;

f. Provisions for off-street parking spaces including calculations indicating the number of parking spaces required and the number provided;

g. Typical cross-sections of public or private streets; and

h. Pedestrian and bicycle facilities.

11. Preliminary utility layout, including location and size of existing and proposed water, sanitary and storm sewer lines.

12. Location and size of all existing and proposed entrances and exits to the site.

13. Proposed reservations or dedications for parks, playgrounds, school sites and open spaces and a note indicating ownership and maintenance provisions.

14. A survey showing tree line before site preparation with typical species and average diameter of trees indicated.

15. Preliminary landscape plan indicating screening, buffering, street trees, and typical ornamental plantings.*

16. Any garbage disposal facilities.*

17. General location and intended use of all buildings with their dimensions, the number of floors, total floor area and maximum height above lowest ground point of each building.*

18. Notations to include the total project area, proposed lot areas (or individual areas to be owned by a homeowners association), the amount and percentage of the site to be covered by buildings, open space, streets and parking and other facilities.

19. General location, size, height, orientation and appearance of proposed signs.

20. General location of proposed project phasing lines and notation including special conditions pertinent to establishing sales or model units, if applicable.

21. A traffic impact analysis, if one is required by the terms of this chapter, demonstrating the project will comply with the requirements of § 152.060, below.

(b) Items marked with an asterisk are not required for development plan review of subdivisions which are not associated with applications for planned developments or special use permits.

(c) The Land Use Administrator has the authority to waive any application requirement where the type of use or scale of the proposal makes providing that information unnecessary or impractical. The Land Use Administrator may require additional information from the applicant where such is necessary to enable a fully informed decision on the matter.

(3) *Standards for review.* An application for preliminary development plan approval shall not be approved unless the Land Use Administrator determines that the application and preliminary development plan demonstrate compliance with this chapter, including the provisions of § 152.060, below, and other applicable regulations. The Land Use Administrator may impose such reasonable conditions on an approval as will ensure such compliance with this subchapter.

(4) *Review by Board of Aldermen.* Within 15 days of the date of the rendition of a decision of the Land Use Administrator, the applicant may file a notice with the Town Clerk requesting the Board of Aldermen to review such decision. Upon receipt of a written notice of review, the Town Clerk shall schedule a public hearing for the next available meeting of Board of Aldermen which shall render a decision based upon the standards for review contained in division (D)(3). Final development plan approval pursuant to division (E), below, shall not be granted until such time as the time to seek review as provided herein has passed or, if review is requested, until such time as the Board of Aldermen has taken final action on such application.

(5) *Effect of preliminary development plan approval.* Approval of a preliminary development plan entitles the applicant to the issuance of a land development permit upon payment of the applicable fee and submittal of an application and final development plans meeting the requirements of division (E), below. The applicant shall have two years from the date of such approval to obtain final development plan approval. An applicant who has been granted preliminary development plan approval shall be divested of the right to develop in accordance with such preliminary development plan approval if the applicant fails to obtain final development plan approval in accordance with this section.

(E) *Review of final development plans.* All development for which development plan approval is required shall undergo final development plan review, including development which has received preliminary development plan approval pursuant to division (D)(3), above, and development which has received a special use permit pursuant to § 152.053, below. Final development plan review is a final step prior to issuance of a land development permit. The process is intended to provide a means for town staff to review detailed plans to ensure the project meets development standards in this chapter as well as any other applicable regulations and any conditions which may have been imposed as a part of any preliminary or conceptual approval.

(1) *Processing of applications for final development plan approval.*

(a) The Land Use Administrator shall conduct a preliminary review of an application to determine if it is complete, which is to say, all information requested on the application has been provided and the development plan contains all items required by division (E)(3). If the Land Use Administrator determines that an application is incomplete, he or she shall notify the applicant in writing of all deficiencies.

(b) Once the Land Use Administrator determines the application to be complete, he or she may cause an analysis to be made by qualified representatives of the town and such other agencies or officials as appear appropriate in the circumstances of the case, to determine compliance with applicable provisions of this chapter.

(2) *Standards for review.* The Land Use Administrator shall render a decision in writing either approving or denying the application. An application for final development plan approval shall not be approved unless the Land Use Administrator determines that the application and final development plan (1) conform with preliminary development plan approval, if applicable, (2) conform with a special use permit, if applicable, and

(3) demonstrate compliance with this chapter and other applicable regulations. If the decision is to deny the application, the Land Use Administrator shall recite with specificity the reasons for such denial.

(3) *Contents of final development plan.*

(a) An application for final development plan approval, other than final plat approval, shall be accompanied by a development plan showing the following:

1. The date of the development plan or submittal, including any revisions thereto.

2. The proposed title of the project and the name of the engineer, architect, landscape architect, planner and/or licensed surveyor; developer; and owner of record.

3. The north arrow point, scale at not greater than one inch equals 40 feet and such information as the names of adjacent roads, streams, railroads, subdivisions or other landmarks sufficient to clearly identify the location of the property.

4. Location of site by an insert vicinity map at a scale no less than one inch equals 2,000 feet.

5. Existing project zoning and zoning of adjacent property, to include properties abutting either side of a public right-of-way.

6. Town limits line or a note indicating that the project site and any adjoining parcels are totally within or without the town limits.

7. Names of adjacent property owners.

8. Boundary survey of site and the location of all existing easements, buildings, rights-of-way or other encroachments.

9. Existing topography and proposed finished contours at not more than two-foot intervals, with project bench mark clearly identified. Location of 100-year floodplain and floodway, if applicable. Other significant natural features affecting the site including but not limited to wetlands, major rock outcrops and lakes or streams. The Land Use Administrator may require topography at intervals smaller than two feet if such is necessary to permit an informed analysis of the development plan.

10. All proposed streets and/or driveways with proposed names, pavement widths and rights-of-way, and showing sight distances and their relationship to all street and driveway intersections within a 200-foot radius of the intersection of such entrances and exits with any public road. All alleys, driveways, curb cuts for public streets and handicap ramps, loading areas and provisions for off-street parking spaces and sidewalks; calculations indicating the number of parking spaces required and the number provided. All streets shall be clearly identified as public or private; a typical cross-section of public or private streets and/or driveways shall be included.

11. Utility layout, including location and size of existing and proposed water, sanitary and storm sewer lines, electrical transmission lines, gas pipelines, street lights, fire hydrants, and garbage disposal facilities.

12. Proposed reservations or dedications for parks, playgrounds, school sites and open spaces and a note indicating ownership and maintenance provisions. Include a copy of condominium declaration and/or maintenance agreements, if applicable.

13. A survey showing tree line before site preparation with typical species and average diameter of trees indicated.

14. Final landscape plan indicating screening, buffering, street trees, ornamental plantings, grass areas and erosion control plantings, and species list, including botanical and common names, sizes and quantities.

15. Proposed location and intended use of all buildings with their dimensions, the number of floors, total floor area and maximum height above average grade for each building.

16. Notations to include the total project area, proposed lot areas (or individual areas owned by a homeowners association), the amount and percentage of the site to be covered by buildings, open space, streets and parking and other facilities.

17. General location, size, height, orientation and appearance of proposed signs.

18. General location of proposed project phasing lines and notation including special conditions pertinent to establishing sales or model units, if applicable.

19. Site lighting plan.

20. Street profiles, if required by the Land Use Administrator.

21. A letter from the Macon County Erosion and Sedimentation Control Officer indicating that plans have been filed and approved. In those instances when a letter from the County Erosion and Sedimentation Control Officer is not required, the applicant shall demonstrate on the development plan and/or in such accompanying documents as may be necessary that the proposed development will comply with the mandatory standards contained in G.S. § 113A-57.

22. Any other permits required by the project.

23. Final stormwater management plan meeting the requirements of §§ 152.190 - 152.199.

(b) The Land Use Administrator may establish additional requirements for development plans, which may be triggered by conditions such as density, topography, location and anticipated traffic volumes on or near the site. In addition, if the Land Use Administrator determines that one or more of the above submittal requirements is not applicable to the proposed project, it may be waived.

(4) *Final plat requirements.* The final plat shall be prepared by a registered land surveyor, licensed to practice in the State of North Carolina, must be drawn to a scale no less than one inch equals 100 feet, and shall meet the requirements of the Macon County Register of Deeds Office. All approved subdivisions, special uses, and boundary line change plats, plans, or surveys must be recorded within 30 days. No final plat shall be approved unless and until the subdivider has installed in the platted area all improvements required by this chapter or has posted improvement guarantees in accordance with this subchapter. The final plat shall contain the following:

(a) The exact boundary of the tract of land being subdivided showing clearly the disposition of all portions of the tract.

(b) Scale denoted both graphically and numerically with north arrow and declination. A vicinity map showing the location of the subdivision with respect to adjacent streets and properties.

(c) As built drawings and plans of all water, sewer, and storm drainage system facilities, illustrating their layouts and connections to existing systems. Such plans shall show all easements and rights-of-way, to demonstrate that the facilities are properly placed and the locations of all fire hydrants, blow-off valves, manholes, pumps, force mains, and gate valves are indicated. This information shall not be placed on the final plat but must be submitted at the time of request for final plat approval or release of any surety for required improvements, whichever comes later.

(d) Sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street, alley line, lot line, building line, easement line, and setback line. All dimensions shall be measured to the nearest one-hundredth of a foot and all angles to the nearest second.

(e) The lines and names of all streets, alley lines, lot lines, lot and block numbers, lot addresses, building setback lines, easements, reservations, protected areas or required open space, the special flood hazard area, on-site demolition landfills and areas dedicated to public purpose with notes stating their purposes. The final plat shall contain the following statement:

"Areas delineated upon this plat or plan as a protection area or special flood hazard areas is subject to limitations upon development as set forth in the Town of Franklin Unified Development Ordinance, and any development, disturbance, or encroachment is prohibited except in accordance therewith."

(f) The accurate locations and descriptions of all monuments, markers, and control points.

(g) Underground and aerial utility easements shall be shown.

(h) The name of the town in which the subdivision is located, the name of the subdivision, the name of the owner, the name, registration number, and seal of the registered surveyor under whose supervision the plat was prepared, and the date of the plat.

(i) All the following certifications shall appear on the final plat:

1. Certificate of Survey and Accuracy. I,_____, certify that this map was (drawn by me)(drawn under my supervision) from (an actual survey made by me) (an actual survey under my supervision) (deed description recorded in Book _____, Page____, Book_____, Page____, etc)(other); that the error of closure as calculated by latitudes and departures is 1:___, that the boundaries not surveyed are shown as broken lines plotted from information found in Book____, Page____; that this map was prepared in accordance with G.S. § 47-30 as amended. Witness my hand and seal this__ _ day of____, A.D., (year).

_____

Official Seal

_____

License or Registration Number

2. Certificate of Ownership and Dedication. I hereby certify that I am (we are) the owner of the property shown and described, which is located in the subdivision jurisdiction of the Town of Franklin and that I hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines, as required. Furthermore, I hereby dedicate all streets, alleys, walks, parks, and other sites and easements, to public or private uses as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer, and water lines that are located in public utility easements or rights-of-way to the Town of Franklin. Furthermore, I hereby set aside in perpetuity for permanent preservation, all open space and protected natural areas as shown, described, or otherwise noted hereupon.

_____ _____

Date Owner(s)

3. Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements. I hereby certify that all streets, utilities, and other required improvements have been installed in an acceptable manner and according to Town of Franklin specifications and standards or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Town of Franklin has been received.

_____ _____

Date Land Use Administrator, Town of Franklin

4. Certificate of Approval for Recording. I hereby certify that the subdivision plat shown hereon has been found to comply with the Unified Development Ordinance for Franklin, North Carolina, and that this plat has been approved by the Town of Franklin for recording in the Office of the Register of Deeds of Macon County. I further certify that the Board of Aldermen only accepts the dedication of the public open space as shown, if such parks are located within the corporate limits of Franklin,

but assumes no responsibility to open or maintain the dedicated open space until, in the opinion of the Board of Aldermen, it is in the public interest to do so.

_____ _____
Date Land Use Administrator

5. Review Officer Certification. State of North Carolina, County of Macon. I, _____, Review Officer of Macon County, certify that the map or plat to which this certification is affixed meets all the statutory requirements for recording.

_____ _____
Date Review Officer

(j) *Placement of monuments.* Unless otherwise specified by this chapter, the Manual of Practice for Land Surveying, as adopted by the N.C. State Board of Registration for Professional Engineers and Land Surveyors under provisions of Chapter 89 of the General Statutes of North Carolina, shall apply when conducting surveys of subdivision; in order to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties; to determine the location, design, and material of monuments, markers, control corners, and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions. In addition, for the purpose of identification and protection of survey corners and monuments, each corner or monument within the subdivision shall have a disk attached to a ferrous rod or placed in concrete that shall be stamped to identify that point as a property corner and or control point. All monuments shall be set flush with or just below ground level and shall be made of durable materials. In addition ferrous materials will be present in sufficient mass either in the monument or in close proximity to the monument to allow for detection by electronic metal detection devices.

(5) *Review by the Board of Aldermen.* Within 15 days of the rendition of a decision denying an application for final development plan approval, the applicant may file a written notice with the Town Clerk requesting the Board of Aldermen to review such decision. Upon receipt of a notice of review, the Town Clerk shall schedule a public hearing for the next available meeting of the Board of Aldermen, which shall render a decision based upon the standards for review contained in division (E)(5). (Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.053 SPECIAL USE REVIEW.

(A) Special use review provides an alternative to traditional zoning by coupling an application for rezoning with an application for a special use permit specifying the intended use(s) along with a conceptual development plan and any proposed conditions to be placed upon the property. Development or uses required to undergo special use review pursuant to this subchapter shall occur only after issuance and recordation of a special use permit. The following developments or uses are required to undergo special use:

(1) Any uses in special use districts as described in §§ 152.020 - 152.041;

(2) Any uses in any of the planned development districts established in §§ 152.020 - 152.041;

(3) Any uses designated as special uses in §§ 152.020 - 152.041; and

(4) Any application to create an urban village.

(B) Uses which may be permitted in special use districts or planned development districts, including the UV Urban Village Zoning Classification, are all permitted by right in other zoning district classifications; however, within these districts they are not permitted "by right." Rather, they are permissible only in conjunction with a rezoning to such a district. This allows the Board of Aldermen to exercise its legislative decision-making power, thus assuming greater discretion, when reviewing such developments. On the other hand, it allows applicants to tailor a development in such a way that it addresses potential concerns about compatibility with neighboring properties.

(C) Although lists of permissible uses are included in each of the planned development districts and incorporated by reference in the special use districts, this does not give rise to a presumption of compatibility for such uses. Rather, the listing of such uses is an indication that they have the potential to be compatible. In each instance of special use zoning, the applicant carries the burden of demonstrating that the proposed use(s) will be located, designed, and proposed to be operated so as to be compatible with adjacent properties and neighborhoods. Indeed, the planned development district

classifications are founded on the presumption that large-scale development has unique potential to adversely impact neighboring properties and neighborhoods and, thus, is only permissible within an appropriate planned development district. In this light, all projects undergoing special use review are required to participate in a neighborhood compatibility meeting where there is an opportunity for a face-to-face dialogue with neighboring property owners in order to describe the project and address their concerns, if any, about compatibility.

(D) *Fee.* A fee shall be paid to the Town of Franklin for each application for a special use permit to cover the costs of advertising and other administrative expenses. The fee shall be set by a resolution of the Board of Aldermen.

(E) *Pre-application conference.* It is recommended that any person desiring to use or develop land pursuant to a special use permit schedule a pre-application conference with the Land Use Administrator to become familiar with the special use permit process and to identify and correct, if possible, potential problem areas with a development concept. Submittals for a pre-application meeting include a location map and a sketch plan of the project, including property boundaries, building footprints, parking, driveways, entrance locations, and such other information which may be requested by the Land Use Administrator.

(F) *Application.* Applications for a special use permit shall be made to the Land Use Administrator on forms prescribed by the Land Use Administrator.

(1) *Contents.* Applications shall include the name and address of the applicant, the name and address of the owner of each zoning lot involved, and the relationship of the applicant and property owner(s) in connection with the application. If the applicant is other than the record owner of the property, the consent of the record owner to the application shall be noted on the application or in some other fashion acceptable to the Land Use Administrator. The application shall also designate an agent for the project to whom notice may be given by the town. The Land Use Administrator shall prescribe any other material that may reasonably be required to determine compliance with this subchapter, with sufficient copies for necessary referrals and records.

(2) *Conceptual plan.* To facilitate the discussion during the neighborhood compatibility meeting required by division (G), the applicant shall submit to the Land Use Administrator, as a part of the application for a special use permit, a conceptual plan showing how development is proposed for the site. The conceptual plan shall show the location and boundaries of the property and how individual buildings are to be situated on the site, including distances from these buildings to property lines, as well as proposed drives and parking. The locations of signs and outdoor lighting shall also be shown where appropriate. Proposed restrictive covenants, if available, shall also be presented. The conceptual plan need not be exactly to scale; although, all distances and dimensions shall be shown.

(G) *Neighborhood compatibility meeting.* This subchapter provides a process whereby affected property owners, residents and developers have an opportunity to participate in a dialog as to how development is to be integrated into their neighborhoods. This is accomplished by a neighborhood compatibility meeting to be facilitated by the Land Use Administrator or his or her designee within 21 days of receipt of a complete application, including the required fee and conceptual plan.

(1) *Notification of participants.* At least seven calendar days prior to the meeting, notice of the meeting shall be given in the following fashion:

(a) The developer shall be informed of the meeting by mail. Failure of the developer, or his or her authorized agent, to attend this meeting shall lead to an automatic annulment of the application.

(b) Property owners within 400 feet of any property line of the proposed sites shall be informed of the meeting by mail.

(c) All other persons shall be informed of the meeting by a conspicuously placed standardized on-site sign.

(2) *The developer's presentation.* During the neighborhood compatibility meeting the developer shall explain to the affected property owners the proposed use for the site. The presentation shall include the developer's position on the compatibility of the project. It is always the developer's responsibility to propose a compatible project.

(3) *Relevant topics to be discussed.* Following the developer's presentation, affected property owners and residents shall be permitted time to question the developer about points which remain unclear. Questioning shall center on the proposal's compatibility as presented, not the question of whether the site should be developed or its use changed.

(4) *Result of neighborhood compatibility meeting.* Following the exchange of views between the developer and affected property owners/residents, the Land Use Administrator shall review orally the points voiced during the informal compatibility meeting. Included in the review shall be proposals or counter-proposals to which both parties have agreed in an effort to make the project compatible, as well as those points where disagreement still exists. Upon conclusion of the review, the Land Use Administrator shall ask those assembled if the positions presented represent an accurate consensus of the opinions expressed by the developer and affected property owners/residents. When they do, the meeting shall be concluded and the Land Use Administrator shall record the opinions in the Land Use Administrator's report. The Land Use Administrator's report shall become a part of the application file.

(H) *Preliminary development plan and completeness review.*

(1) Upon completion of the neighborhood compatibility meeting, it shall be the responsibility of the applicant to submit a preliminary development plan meeting the requirements of division (H)(3), below. The Land Use Administrator shall cause the application to be reviewed for completeness and shall notify the developer in writing if the application is incomplete, specifying what additional information is needed in order for the application to be deemed complete.

(2) It shall then be incumbent upon the applicant either to provide the additional information requested by the Land Use Administrator or, if he believes providing the requested information is unreasonably burdensome, to notify the Land Use Administrator in writing that he declines to provide the information requested. Upon receipt of all requested information or, in the alternative, written notice from the applicant that no further information will be provided, the Land Use Administrator shall refer copies of the proposal to such other representatives of the town and to such other agencies or officials as may be appropriate to determine if it conforms to the provisions of this zoning ordinance and to such other regulations applicable in the case.

(3) *Contents of preliminary development plan.*

(a) The preliminary development plan for projects undergoing special use review shall show the following:

1. The date of the development plan or submittal, including any revisions thereto.

2. The proposed title of the project and the name of the engineer, architect, landscape architect, planner and/or licensed surveyor; developer; and owner of record.

3. The north arrow point, scale at not greater than one inch equals 40 feet and such information as the names of adjacent roads, streams, railroads, subdivisions or other landmarks sufficient to clearly identify the location of the property.

4. Location of site by an insert vicinity map at a scale no less than one inch equals 2,000 feet.

5. Existing project zoning and zoning of adjacent property, to include properties abutting either side of a public right-of-way.

6. Town limits line, and/or extraterritorial jurisdiction boundary, or a note indicating that the project site and any adjoining parcels are totally within or without the town limits.

7. Names of adjacent property owners.

8. Boundary survey of site and the location of all existing easements, buildings, rights-of-way or other encroachments.

9. Location of 100-year floodplain and floodway, if applicable. Other significant natural features affecting the site including but not limited to wetlands, major rock outcrops and lakes or streams.

10. The proposed transportation network for the project including, but not limited to, the following:

a. All proposed streets, clearly identified as public or private, with proposed names, pavement widths and rights-of-way;

b. Sight distances for all entrances and exits and their relationship to street and driveway intersections within a 200-foot radius of the intersection of such entrance and exit with any public right-of-way;

c. All alleys, driveways, and curb cuts for public streets;

d. All handicap ramps;

e. Off-street loading and unloading areas;

f. Provisions for off-street parking spaces including calculations indicating the number of parking spaces required and the number provided;

g. Typical cross-sections of public or private streets; and

h. Pedestrian and bicycle facilities.

11. Preliminary utility layout, including location and size of existing and proposed water, sanitary and storm sewer lines.

12. Location and size of all existing and proposed entrances and exits to the site.

13. Proposed reservations or dedications for parks, playgrounds, school sites and open spaces and a note indicating ownership and maintenance provisions.

14. A survey showing tree line before site preparation with typical species and average diameter of trees indicated.

15. Preliminary landscape plan indicating screening, buffering, street trees, and typical ornamental plantings.

16. Any garbage disposal facilities.

17. General location and intended use of all buildings with their dimensions, the number of floors, total floor area and maximum height above lowest ground point of each building. If several models of units are being offered for sale and the type of unit at each building location is not known, then a general outline of the unit to be constructed may be shown at the building location.

18. Notations to include the total project area, proposed lot areas (or individual areas to be owned by a homeowners association), the amount and percentage of the site to be covered by buildings, open space, streets and parking and other facilities.

19. General location, size, height, orientation and appearance of proposed signs.

20. General location of proposed project phasing lines and notation including special conditions pertinent to establishing sales or model units, if applicable.

21. A traffic impact analysis, if one is required by the terms of this chapter demonstrating the project will comply with the requirements of § 152.060, below.

22. Elevations of all facades, including existing structures to remain, drawn to a reasonable scale which shall be not less than 1/8-inch equals one foot. Plans shall designate proposed materials and colors of architectural features.

(b) The Land Use Administrator has the authority to waive any application requirement where the type of use or the scale of the project makes providing that information unnecessary or impractical. The Land Use Administrator, Planning Board, or Board of Aldermen may request additional information from the applicant where such is necessary to enable a fully-informed decision on the matter.

(4) *Completeness review.* Upon receipt of a preliminary development plan, the Land Use Administrator shall cause the application to be reviewed for completeness and shall notify the applicant in writing if the application is incomplete, specifying what additional information is needed in order for the application to be deemed complete. It shall then be incumbent upon the applicant either to provide the additional information requested by the Land Use Administrator or, if he or she believes providing the requested information is unreasonably burdensome, to notify the Land Use Administrator in writing that he or she declines to provide the information requested. Upon receipt of all requested information or, in the alternative, written notice from the applicant that no further information will be provided, the Land Use Administrator shall refer copies of the proposal to such other representatives as may be appropriate to determine if it conforms to the provisions of this chapter and to such other regulations applicable in the matter.

(I) *Processing of application.* The completion date for the application shall be the date of receipt of either (1) all information requested by the Land Use Administrator pursuant to division (H) or (2) written notice from the applicant that no further information shall be provided. The application will then be scheduled for the next Planning Board meeting that is at least 24 days in the future. Substantial modification of the application subsequent to the complete date may result in the application being deferred to a subsequent meeting of the Planning Board. Any material modification of the application within seven days prior to the Planning Board meeting shall result

in deferral of the application to the next available meeting. For purposes of this section, the application shall include the preliminary or conceptual development plan, as the case may be.

(J) *Planning Board review.* The Planning Board shall review the application and shall submit to the Board of Aldermen a written recommendation based on the findings required in division (M).

(K) *Public hearing.* Within 45 days of receiving the recommendation of the Planning Board, the Board of Aldermen shall conduct a quasi-judicial public hearing on the application. Notice of the date, time and place of the public hearing shall be published in a newspaper of general circulation once a week for two successive weeks with the first notice to be published not less than ten nor more than 25 days prior to the date of the hearing. Similar notice shall also be mailed to the owner of the property which is the subject of the application and the owners of all parcels of land situated within 400 feet of any of the boundaries of the subject parcel. Ownership shall be determined by reference to the Macon County tax listing.

(L) *Final action.* Upon completion of the hearing required in division (K), the Board of Aldermen shall act on the application based on the findings of fact contained herein. Action on the application shall be one of the following: (1) approval; (2) approval subject to conditions; or (3) denial. The Land Use Administrator shall notify the applicant of the Board's decision in writing. If the application is approved or approved with conditions, the Land Use Administrator shall issue the necessary special use permit in accordance with the action of Board. The special use permit, including all conditions attached thereto, shall run with the land and shall be binding on the original applicant as well as all successors.

(M) *Findings of fact.*

(1) No special use permit shall be approved by the Board of Aldermen unless each of the following findings is made.

(a) The use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare.

(b) There are, or will be at the time they are required, adequate public facilities to serve the use or development as specified in § 152.060, below.

(c) The use or development complies with all required regulations and standards of this chapter or with variances thereto, if any, granted pursuant to division (S), below, and with all other applicable regulations.

(d) The use or development is located, designed, and proposed to be operated so as to be compatible with the particular neighborhood in which it is to be located.

(e) The use or development conforms with the general plans for the physical development of the town as embodied in this chapter, the *Principles of Growth*, the *Thoroughfare Plan*, and any other duly adopted plans of the town.

(2) The burden of establishing these findings of fact shall lie upon the applicant. In addressing the issue of compatibility, as required in division (M)(1)(d), above, the applicant must demonstrate compatibility with the particular neighborhood in which the development or use is to be located. The fact that a use is authorized as a special use within a zoning district classification shall not give rise to a presumption that such special use is compatible with other uses authorized in the zoning district classification.

(N) *Conditions to approval of the special use permit.* In approving a petition for the reclassification of property to a planned development district or a special use district, the Planning Board may recommend and the Board of Aldermen may request, that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that the Board of Aldermen may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the town, county or state, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by Board of Aldermen.

(O) *Effect of approval.*

(1) If a petition is approved under this section, the district that is established, the approved

petition, and all conditions which may have been attached to the approval, are binding on the property as an amendment to this chapter and to the Zoning Map. All subsequent development and use of the property shall be in accordance with the standards for the approved planned development or special use district, the approved petition, including the conceptual or preliminary development plan, and all conditions attached to the approval, unless such approval shall lapse or the property is rezoned.

(2) If a petition is approved, the petitioner shall comply with all requirements established for obtaining a land development permit, a building permit and certificate of occupancy. Only those uses and structures indicated in the approved petition and development plan shall be allowed on the subject property. Any development in the district shall comply with all provisions of and conditions to the approved petition and development plan.

(P) *Final development plans.* Final development plans shall be reviewed by the Land Use Administrator to ensure conformance with the requirements set forth in § 152.052(E). Final development plans shall include any modifications agreed to as conditions of issuance of the special use permit as well as a list of any conditions and a list of any uses as stipulated in the special use permit.

(Q) *Issuance of land development permit.* A special use permit does not authorize development; rather, it approves a development concept for a particular property. In order to develop the property in accordance with the special use permit, a land development permit is required. A land development permit shall be issued upon certification by the Land Use Administrator that he has received a final development plan demonstrating compliance with the preliminary or conceptual development plan, as well as all terms and conditions of the special use permit.

(R) *Expiration and revocation of special use permits.* A special use permit or modification of a special use permit shall run with the land covered by the permit or modification. Once construction authorized by a special use permit or modification of special use permit is started, no development other than that authorized by the permit or modification shall be approved on that land unless the permit or modification is first modified in accordance with § 152.055(E) or voided or revoked in accordance with the provisions of this section.

(1) *Commencement.* If the use, construction, or activity authorized by the Board of Aldermen approval of an application for a special use permit (or modification thereof) is not commenced within two years of the date of approval or within such further time stipulated in the approval, the approval shall expire and any town permit issued pursuant to the approval shall be void. The Board of Aldermen may, upon application prior to the expiration of a special use permit, or any extensions thereof, extend such special use permit for an additional period not to exceed 24 months.

(2) *Completion.* Unless a different period of time is authorized by the Board of Aldermen, the right to construct improvements or otherwise develop land pursuant to a special use permit shall expire three years after issuance of the special use permit. If all of the construction and actions authorized or required by a special use permit are not completed within the time established for completion, or any authorized extensions thereof, the permit holder may request an extension of the completion time limit from the Board of Aldermen, which Board may grant one or more extensions upon making the following determinations:

(a) The permit holder requested the extension prior to the expiration of the special use permit, as it may have been previously extended;

(b) The permit holder has proceeded with due diligence and good faith; and

(c) Conditions have not changed so substantially as to warrant the Board of Aldermen to reconsider the approved special use.

(3) *Abandonment.*

(a) On request by the holder of a special use permit, the Board of Aldermen shall approve the abandonment of such permit upon making one of the following determinations:

1. No construction or activity authorized by the permit has been started and the starting time limit has not yet expired; or

2. The development or use authorized by the permit no longer requires a special use permit, and all conditions of the special use permit have been satisfied.

(b) In addition, The Board must determine that the permit holder has submitted a signed affidavit clearly stating the holder's intent to abandon the permit.

(4) Revocation. If any conditions of a special use permit, including completion time limits, or requirements of this chapter applicable to the permit are violated, the Board of Aldermen may

revoke the permit. The Board may reinstate a revoked special use permit when the holder of the revoked permit submits a request for reinstatement to the Land Use Administrator within 90 days of the date of revocation demonstrating (1) that the violations which were the cause of the revocation have been corrected and (2) the development fully complies with all conditions of the permit and all applicable requirements of this chapter.

(5) *Voluntary revocation.* On request by the holder of a special use permit, the Board may revoke such permit if it determines all of the following:

(a) Construction authorized by the permit has been started and the completion time limit has not yet expired;

(b) The request is made in conjunction with an application for approval of a development other than that authorized the permit; and

(c) The proposed development as approved by the Board incorporates adequate consideration for the site's already disturbed land area in its design and any previous commitments made under the special use permit process.

(S) *Variances.* For applications undergoing special use review, the Board of Aldermen may authorize variances in specific cases from the dimensional and improvements standards of this chapter upon finding that a literal enforcement of such standards will result in practical difficulty or unnecessary hardship and so long as the granting of such variance or variances will not result in a use or development which would violate the findings of fact required by division (M), above. Variances may not be granted with regard to uses or to density.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.054 PROJECT PHASING.

If a project is to be developed in phases, the plan for the entire development will be used to determine the nature of review it will receive. Before development may commence, the entity with power to issue development authorization, that is, the Land Use Administrator or the Board of Aldermen, as the case may be, must approve a master plan for the entire development site. Final plans for the development may be submitted in stages and may be approved by the Land Use Administrator provided the following requirements are met:

(A) All stages shall be shown with precise boundaries on the master plan and shall be numbered in the expected order of development.

(B) Each phase must be able to function independently of subsequent phases.

(C) All the data required for the project as a whole shall be given for each stage shown on the plan.

(D) A proportionate share of open space shall be included in each stage of the development.

(E) The phasing shall be consistent with the traffic circulation, drainage, and utilities plan for the entire development.
(Ord. passed 10-1-07)

§ 152.055 MODIFICATION OF DEVELOPMENT AUTHORIZATIONS.

(A) Development may only take place in accordance with approvals granted hereunder. Any deviation from approved development requires review and approval pursuant to this section. In general, the entity which approved the development for which modification is sought will be responsible for deciding whether to approve modifications to such development. There are two exceptions to this rule. First, in some circumstances, as defined herein, the Land Use Administrator may authorize modifications which are deemed minor. Second, if the density of the entire development, taking into consideration the proposed modification and any previous modifications, would exceed the threshold for a higher level of review and if such modifications, viewed cumulatively, do not qualify as de minimis, as defined herein, the entire development will be required to undergo the higher level of review.

(B) Proposed modifications shall qualify as de minimis if the cumulative effect of such modifications would not increase the established density of the development by more than 10%. Density shall be measured in terms of dwellings per acre for residential developments and in terms of gross floor area for non-residential developments. The established density shall be the density approved in the initial land development permit for the development. By way of illustration, if the owner of a commercial development with an established density of 25,000 square feet of floor area proposed a 6,000-square-foot addition, the entire development, including that which is existing or previously approved, will be required to undergo special use review in accordance with § 152.123. If the owner of

such development proposed a 2,000-square-foot addition, the modification would qualify as de minimis and would be processed under development plan review.

(C) *Modifications of developments authorized under land development review.* The Zoning Administrator shall approve modifications to developments authorized under land development review so long as the total development, including all modifications, complies with applicable provisions of this chapter and so long as the total development does not exceed the thresholds for development plan review.

(D) *Modifications of developments authorized under development plan review.* The Land Use Administrator may approve a modification of a land development permit for changes to plans approved under development plan review as long as such changes continue to comply with all applicable requirements and so long as the total development, including all modifications, does not exceed the threshold for special use review.

(E) *Modifications of developments authorized under special use review.* The Land Use Administrator is authorized to approve minor modifications to the approved final plans of developments authorized under special use review, but major modifications may only be authorized by the Board of Aldermen in accordance with the procedures set forth herein. A modification shall be deemed minor if it is not a major modification. A modification shall be deemed major if it proposes a substantial departure from the approving action of the Board of Aldermen with regard to the original application or any subsequent modifications. Substantial departure from such approving action shall exist whenever the proposed modification would result in one or more of the following:

(1) A substantial change in the boundaries of the site approved by the Board;

(2) A substantial change from the use(s) approved by the Board;

(3) A substantial increase in the floor area approved by the Board;

(4) A substantial increase in the number of residential dwelling units;

(5) A substantial increase in the density of nursing homes, rest homes, congregate care facilities or progressive care facilities;

(6) A substantial change in the location of one or more principal and/or accessory structures approved by the Board;

(7) Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal and/or accessory structures as shown on the plans approved by the Board;

(8) A substantial change in pedestrian or vehicular access or circulation approved by the Board; and

(9) A substantial change in the amount or location of open space, landscaping or buffer screens approved by the Board.

(F) If the proposed action is determined to be a major modification, the Land Use Administrator shall require the filing of an application for approval of the modification. The Land Use Administrator shall prescribe the form(s) of application as well as any other material reasonably required to determine compliance with this subchapter. An application for major modification of a development authorized under special use review shall be reviewed in accordance with the procedures established for special use review.

(G) No modification shall be allowed to a special use permit issued in a special use zoning district or a planned development district unless the applicant accepts all of the requirements and conditions the Board of Aldermen proposes to impose on the modification. Acceptance of conditions by the applicant may be indicated at the Board hearing on the special use permit modification or by affidavit submitted prior to the Board taking action on the modification application.
(Ord. passed 10-1-07)

§ 152.056 EXPIRATION AND REVOCATION OF LAND DEVELOPMENT PERMITS.

This section governs the expiration and revocation of land development permits issued subsequent to land development review or development plan review. The expiration and revocation of land development permits issued subsequent to special use review are governed by the provisions of § 152.053.

(A) *Commencement.* If a building permit for the use, construction, or activity authorized by approval of an application for a land development permit or modification of a land development permit is not obtained within six months of the date of

approval, or within such further time stipulated in the approval, the approval shall expire and any town permit issued pursuant to the approval shall be void. The Land Use Administrator may grant a single extension of the starting time limit for up to 12 months unless he or she determines that paramount considerations of health, the general welfare, or public safety require reconsideration by the entity which granted development authorization. The Land Use Administrator shall determine whether the use, construction, or activity has started.

(B) *Completion.* If all construction and actions authorized or required by a land development permit or modification thereof are not completed within 18 months or such other completion date stipulated in the permit or modification, the permit holder may request an extension of the completion time limit from the Land Use Administrator. The Land Use Administrator may grant extensions of the time limit for periods of up to 12 months if he or she determines the following:

(1) The permit holder requested the extension prior to the expiration of the completion time limit;

(2) The permit holder has proceeded with due diligence and good faith; and

(3) Conditions have not changed so substantially as to warrant reconsideration of the approved development. The Land Use Administrator shall determine whether or not all construction and actions authorized or required have been completed.

(C) *Revocation.* If any conditions of a land development permit or modification, including completion time limits, or requirements of this ordinance applicable to the permit or modification are violated, the Land Use Administrator may revoke the permit or modification. The Land Use Administrator may reinstate a revoked land development permit or modification of land development permit if he or she determines the following: (1) the holder of the revoked permit or modification submitted a request for reinstatement within 90 days of revocation; (2) the violations that were the cause of the revocation have been corrected; and (3) the development fully complies with all conditions of the permit or modification and all applicable requirements of this chapter.
(Ord. passed 10-1-07)

§ 152.057 PLANNED DEVELOPMENTS.

(A) This section applies to all planned developments regardless of use district or classification and regardless of the development review process required. A planned development consists of land that is under unified control and planned and developed as a whole and which includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development shall be constructed according to comprehensive and detailed plans which include not only streets, utilities, lots or building sites, and the like, but also development plans and floor plans for all buildings as intended to be located, constructed, used, and related to each other, and detailed plans for other uses and improvements on the land as related to the buildings. A planned development shall include a program for the provision, operation, and maintenance of such areas, facilities, and improvements as will be for common use by some or all of the occupants of the planned development district, but which will not be provided, operated, or maintained at general public expense.

(B) *Statement of purpose.* The purpose of this section is to promote the efficient and well planned use of land through unified development of sites while providing the town with open space, compatible uses, optimum service of community facilities and adequate vehicular access and circulation. A planned development is situated, designed, landscaped and buffered in such a manner that it will be compatible with environmentally sensitive areas, such as flood plains or steep slopes, and with existing or proposed land uses in adjoining neighborhoods.

(C) *Ownership control.* The land in a planned development shall be under single ownership or management at the time of construction or proper assurances shall be provided that the project can be successfully completed.

(D) *Establishment of planned developments.* Except for minor planned residential developments, which may be developed in certain use district as specified herein, planned developments may only be established in one of the planned development zoning district classifications, that is, PRD, PCD, or PMH. Planned developments shall be appropriately located with respect to intended functions, to the pattern and timing of development indicated in the principles of growth and to public and private facilities existing or clearly to be available by the time the development reaches the stage where they will be needed.

(E) *Development standards for planned residential developments.*

(1) Unless noted otherwise, the following development standards shall apply to all planned residential developments, whether major or minor.

(a) *Open space requirements.* Planned residential developments shall have, as a minimum, the percentages of the site as open space in accordance with the following table;

Zoning District Classification	***% Open Space Required***
R-1	40
R-2	40
C-1	10
C-2	40
C-3	40
1-1	40
NMU	20
MICR	20

(b) *Common space requirements.* Planned residential developments shall provide common space which shall be at least 10% of the site or 1% of the site for each dwelling unit per acre, whichever is greater.

(c) *Setbacks.* All dwellings and their accessory structures shall be set back not less than 30 feet from the nearest right-of-way line for any street or railroad adjoining the site; provided, however, such setback may be reduced to ten feet when parking is situated to the side or rear of the lot and screened from view from public rights-of-way. Furthermore, such buildings and structures shall be set back not less than 30 feet from any exterior property line which is not a right-of-way.

(2) The Land Use Administrator or Board of Aldermen, as the case may be, shall require reservations of rights-of-way, as well as increased setbacks, for roads identified on the thoroughfare plan, including existing roads to be widened as well as corridors of new roads.

(3) All dwellings and their accessory structures shall be located at least ten feet from the edge of the paving for any street or drive and at least five feet from the edge of the paving for any area devoted principally to parking. Carports shall be situated at least ten feet from the edge of the paving for any street or drive and may be physically connected to the principal structure which they serve. In addition, dwellings and accessory structures abutting a street intended to serve more than 32 dwelling units or intended to be dedicated as a public street must be set back a minimum of 50 feet from the center line of such street. The approved setback lines shall be shown on the plan of development and on any recorded subdivision plat. In addition to the foregoing setback requirements, minimum spacing between buildings shall be provided as per the N.C. State Building Code Volume V-Fire Prevention.

(a) *Subdivision of planned residential developments.* Planned residential development projects may be subdivided provided that arrangements for such subdivision are made at the time of the planned residential development application. Zero lot lines may be permitted on one or more lot lines of each lot in accordance with these standards:

1. Any wall constructed on the lot line shall be a solid, windowless wall. If there is an offset of the wall from the lot line, the offset must be at least six feet.

2. A five-foot maintenance easement and a maximum eave encroachment of 32 inches within the maintenance easement shall be established in the deed restrictions and covenants of the adjoining lot. This will provide ready access to the lot line wall at reasonable periods of the day for normal maintenance.

(b) *Circulation and access.* Internal streets, drives and parking areas shall provide safe and convenient access to dwelling units and recreation facilities, and for service and emergency vehicles. Streets shall not be designed to encourage outside traffic to traverse the planned residential development on local streets. Sidewalks shall be required along streets adjacent to the planned residential development. Sidewalks shall form a logical, safe, and convenient system for pedestrian access to all dwelling units and appropriate project facilities and shall be required along such streets, drives and parking areas within the planned residential development as is necessary to accomplish this. Pedestrian/bicycle pathways may be substituted for sidewalks, if appropriate.

(c) *Streets.*

1. Streets intended to serve more than 32 dwelling units as well as those intended to be dedicated as public streets shall meet the design and construction standards of the NCDOT. All other streets and drives need not comply with NCDOT's pavement width and road right-of-way

standards, but they shall comply with its pavement structure requirements. All dead-end streets and drives shall terminate in a cul-de-sac or other adequate means of reversing vehicular direction. It shall be the responsibility of the developer to submit to the Director of Public Works core samples taken by a licensed testing firm demonstrating that completed streets or drives meet such pavement structure requirements.

2. Internal streets with minimum setbacks measuring less than 50 feet from center line shall be private streets and are not acceptable for dedication to, or maintenance by, the town. Developments containing such private internal streets with setbacks measuring less than 50 feet from center line shall have the following disclaimer in large type placed in a prominent position on the following applicable documents for the development: the development plan, the plat, the restrictive covenants, the condominium documents, and any contracts used in the sale of properties.

> Some or all of the streets and/or drives in this development do not meet minimum right-of-way requirements for the Town of Franklin. You are notified that these are proposed as private streets and that the Town of Franklin will not accept them for maintenance.

(d) *Buffering, screening and landscaping.* The applicant shall propose and plant, construct and make satisfactory arrangements for the preservation of a buffer and/or setbacks adequate to protect adjoining properties from the impacts of the proposed development. Parking and service areas and dumpsters shall be screened from view by adjacent single-family residences. Existing vegetation shall be preserved whenever possible. In addition, the developer shall provide an appropriate landscaping plan within the project. Use of native species is highly encouraged.

(e) *Off-street parking.*

1. Off-Street parking requirements for planned residential developments shall be as follows:

a. A minimum of one-and-one-half spaces per residential unit containing one or two bedrooms.

b. A minimum of two spaces per residential unit containing three or more bedrooms.

2. Enclosed garages and carports count towards meeting the parking requirement. All parking spaces shall be located within 75 feet of the residential unit they serve.

(f) *Maintenance of common facilities.* The developer, project owner, or a properly established homeowners association shall provide for the continuing maintenance of common open space, recreational facilities, sidewalks, parking, private streets, and other privately owned common facilities serving the project.

(F) *Minor planned residential developments.* An applicant may elect to have a development processed as a minor planned residential development so long as the proposed development, including all phases, does not exceed 30 dwelling units and so long as no accessory commercial development is requested for the project. A minor planned residential development may be located in one or more of the following zoning district classifications: R1, R-2, C-1, C-2, C-3, NMU, and MICR.

(1) *Density.* The maximum number of dwelling units which may be constructed in a minor planned residential development shall be 30 dwelling units or a number computed on the basis of the following table, whichever is less:

Zoning District Classification	***Dwelling Units Per Acre***
R-1	6
R-2	8
C-1	18
C-2	10
C-3	10
NMU	10
MICR	10

(2) *Development standards for minor planned residential developments.* Except as otherwise noted herein, minor planned residential developments shall be governed by the development standards for planned residential developments contained in division (E), above. Unlike major planned residential developments, there is no minimum site requirement for a minor planned residential development, nor is there a requirement that access be by means of a designated thoroughfare.

(3) *Procedures for reviewing.* Unlike other planned developments which undergo special use review, minor planned residential developments undergo development plan review pursuant to § 152.052, above.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.058 "AS-BUILT" OR RECORD DRAWINGS.

This section applies only to development which has undergone development plan or special use review. "As built" or record drawings shall be submitted prior to the issuance of the last Certificate of Occupancy for the project. These drawings shall be submitted in two parts. The first, at a scale not greater than one inch equals 40 feet, shall show all features on the development plan. The second, at a scale not greater than one inch equals 200 feet, may show only all underground facilities on the site and the depth of bury. Plans and verifications shall be signed and sealed by an architect, engineer or surveyor licensed to practice in the State of North Carolina.
(Ord. passed 10-1-07)

§ 152.059 PROJECT INFRASTRUCTURE.

Project infrastructure refers to the improvements, such as water and wastewater lines, streets and roads, stormwater management facilities, sidewalks and street lighting, which are necessary to sustain the intended use of a project.

(A) *Construction of project infrastructure.* Upon approval of the final development plan by the Board, the applicant shall proceed with the construction of project infrastructure, including but not limited to, streets, water and sewer facilities, drainage, sedimentation and erosion control facilities, and lighting. Except as provided in division (B) below, and prior to issuance of a building permit, the applicant shall complete, install and provide for the dedication of all project infrastructure as specified on the approved final development plan. The applicant shall certify the dedication of said improvements in a form acceptable to the town. All construction undertaken pursuant to the final development plan shall be inspected and approved by the Town of Franklin and/or appropriate local, state, and federal agencies prior to issuance of a certificate of occupancy for the development.

(B) *Guarantee in lieu of construction of Project infrastructure.*

(1) In lieu of requiring the completion, installation and dedication of all project infrastructure prior to the issuance of a building permit, the town may accept a bond with approved surety or a letter of credit payable to the Town of Franklin in an amount equal to 125% of the estimated cost of the installation of the required improvements, whereby the improvements may be constructed and utilities installed without cost to the town in the event of default of the developer.

(2) The letter of credit or bond shall remain in full force and effect until such time as the construction of project infrastructure is completed and accepted by the town. No bond or letter of credit may be called without 60-days prior written notice to the town. Failure to maintain in effect a town-approved financial guarantee of any incomplete improvement shall suspend the approval of the plan and any permits issued as a result of the plan approval.

(3) All financial guarantees must contain language requiring the completion of all project infrastructure as shown on the approved final development plan and the guarantee of these improvements for an 18-month warranty after they have been accepted by the town. All financial guarantees must either be issued from a financial institution incorporated in the State of North Carolina or be redeemable at a financial institution incorporated in the State of North Carolina.
(Ord. passed 10-1-07)

§ 152.060 ADEQUATE FACILITIES REVIEW.

(A) Certain developments, due to their type, size and/or location, tend to have greater impacts on public services and facilities than does development generally. In order to ensure that such development is undertaken only when there are adequate public facilities to serve it, no development undergoing special use review shall be approved unless the Board of Aldermen first determines that adequate facilities and services will be available to such development before it is occupied. Specifically, no development undergoing special use review shall be approved unless the Board of Aldermen finds that all of the following conditions exist or will exist on or before the date that buildings or land in the proposed development will be occupied.

(1) *Water supply.* There will be an adequate potable water supply available for the proposed occupancy. An adequate public water supply shall include adequate potable water for consumption and other inside and outside uses, and adequate water pressure and fire flow to meet established standards of the town for fire protection.

(2) *Wastewater.* There will be adequate connections to public wastewater disposal systems with adequate capacity to handle the type and volume of flow from the proposed occupancy.

(3) *Streets.* The street system in the development will connect to segments of the public street system with adequate capacity to handle the projected traffic flow, both on an average basis and at peak hours. Furthermore, the development shall be so located with respect to major street, bicycle and pedestrian networks, or public transportation facilities, and shall be so designed, as to provide direct access to the development without creating substantial additional traffic in residential neighborhoods outside the development.

(B) Developments failing to meet these criteria may be approved if the applicant (1) provides private facilities, utilities, and services approved by appropriate public agencies as substituting on an equivalent basis, and assures their satisfactory continuing operation, permanently or until similar public utilities, facilities, or services are available and used, or (2) makes provision acceptable to the town for offsetting any added net public cost of early commitment of public funds made necessary by such development. In determining net public costs, the difference in anticipated public installation, operation, and maintenance costs and the difference in anticipated public revenue shall be considered. Expenses involved in making such determinations shall be paid by the applicant. Determinations shall be made by the town or by experts acceptable to the town.
(Ord. passed 10-1-07)

§ 152.061 AGGREGATION.

Two or more developments shall be aggregated and treated as a single development under this chapter when they are determined to be part of a unified plan of development and are physically proximate to one another. Each of the criteria listed below is indicative of a unified plan of development. Whenever one or more are found to exist, the reviewing authority may, but is not required to, determine that two or more projects are part of a unified plan of development.

(A) The same person has control of the developments;

(B) The same person has ownership or a significant legal or equitable interest in the developments;

(C) There is common management controlling the form of physical development or disposition of parcels of the development;

(D) There is a reasonable closeness in time between the completion of some or all of one development and the submission of an application for authorization of other development which is indicative of a common developmental effort;

(E) A master plan or series of plans or drawings exists covering the developments sought to be aggregated;

(F) There is a voluntary sharing of infrastructure that is indicative of a common development effort or is designated specifically to accommodate the developments sought to be aggregated;

(G) There is a common advertising scheme or promotional plan in effect for the developments sought to be aggregated.
(Ord. passed 10-1-07)

§ 152.062 APPEALS OF DEVELOPMENT DECISIONS.

Development decisions rendered pursuant to this article are subject to review in the manner set forth herein.

(A) *Administrative remedies.* There are two separate bodies charged with responsibility for administrative review of development decisions: the Board of Adjustment and the Board of Aldermen. In no case will decisions of either of those bodies be subject to review by the other. Judicial review from the decisions of those boards may be available in accordance with division (B), below. The following development decisions are subject to administrative review in the manner indicated

(1) *Land development permits.* Decisions regarding applications for issuance of land development permits are subject to review by the Board of Adjustment upon the timely filing of an appeal pursuant to § 152.075, below.

(2) *Preliminary development plans and preliminary plats.* Decisions of the Land Use Administrator regarding applications for preliminary development plan approval or for preliminary plat approval are subject to review by the Board of Aldermen upon the timely filing of a notice of review pursuant to § 152.052, above.

(3) *Final development plans and final plat approval.* Decisions of the Land Use Administrator regarding applications for final development plan approval and final plat approval are subject to review by the Board of Aldermen upon the timely filing of a notice of review pursuant to § 152.052(E)(4), above.

(B) *Judicial review.* Judicial review of development decisions rendered pursuant to this article shall be in accordance with this section and with the North Carolina General Statutes. In no event shall a party be entitled to judicial review until such time as all administrative remedies have been exhausted.

(1) *Land development permits.* Decisions of the Board of Adjustment regarding appeals from development decisions concerning applications for land development permits may be appealed to the Superior Court in accordance with § 152.078, below. Such appeals shall be in the nature of certiorari.

(2) *Preliminary development plans and preliminary plats.* Decisions of the Board of Aldermen regarding appeals from development decisions concerning applications for preliminary development plan approval or preliminary plat approval may be appealed to the Superior Court by any aggrieved party. Such appeals shall be in the nature of certiorari and must be filed within 30 days after the filing of the decision in the office of the Town Clerk or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Clerk at the time of the hearing, whichever is later. The copy of the decision of the Board of Aldermen may be delivered to aggrieved parties either by personal service for by registered mail or certified mail return receipt requested.

(3) *Final development plans and final plats.* Decisions of the Board of Aldermen regarding appeals from development decisions concerning applications for final development plan approval or final plat approval may be appealed to the Superior Court by any aggrieved party in the same manner as decisions regarding preliminary development plans set forth in the preceding section.

(4) *Special use review.* Judicial review of decisions regarding applications processed under the provisions of special use review, established in § 152.053, above, require special treatment due to the fact that they involve two separate applications which, though processed simultaneously, require the Board of Aldermen to make two separate decisions exercising two different types of decision-making authority. One application requests enactment of an ordinance amending the Official Zoning Map, and the other requests issuance of a special use permit. The first application involves a legislative decision on the part of the Board, and the second a quasi-judicial decision. The quasi-judicial decision, that is, the one concerning the application for a special use permit, may be appealed to the Superior Court by any aggrieved party in the manner prescribed in division (B)(2), above. Such appeal shall be in the nature of certiorari. The legislative decision, which is the one concerning the request for rezoning, may be contested, in accordance with G.S. § 160A-364.1, by a cause of action commenced within two months of the date of the decision.
(Ord. passed 10-1-07)

BOARD OF ADJUSTMENT

§ 152.070 ESTABLISHMENT OF BOARD OF ADJUSTMENT AND QUALIFICATIONS OF MEMBERS.

A Board of Adjustment is hereby established. Said Board shall consist of seven members; five members of the Board shall be residents of the Town of Franklin and shall be appointed by the Board of Aldermen and two members shall reside in the town's area of extraterritorial jurisdiction and shall be appointed by the Board of Commissioners of Macon County.

(A) *Terms.* Terms shall be three years; however, the Board of Aldermen and the Macon County Board of Commissioners may appoint members for a lesser term in order to achieve a balanced system of overlapping terms. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board.

(B) *ETJ members.* The two members appointed to the Board of Adjustment by the Board of County Commissioners as representatives of the Franklin Area of Extraterritorial Jurisdiction shall have equal rights, privileges and duties with other members of the Board in all matters pertaining to the regulation of this chapter in the town and its extraterritorial jurisdiction.

(C) *Alternates.* The Board of Aldermen or the County Board of Commissioners, as appropriate, may appoint alternate members to serve on the Board in the absence of any regular members. Alternate members shall be appointed for the same term and in the same manner as regular members. Each alternate member, while attending any regular or

special meeting of the Board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.
(Ord. passed 10-1-07)

§ 152.071 POWERS OF THE BOARD OF ADJUSTMENT.

The Board of Adjustment shall have the following powers:

(A) To hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with the enforcement of this chapter.

(B) To hear and decide requests for variances from the dimensional requirements of this chapter.

(C) To make interpretations of the Official Zoning Map and to pass upon disputed questions of lot lines or district boundary lines and similar questions as arise in the administration of this chapter.

(D) To enter, at reasonable times, upon private lands and make examinations or surveys as necessary for the performance of its official duties.

(E) To request the Board of Aldermen to hold public hearings on matters within the purview of the Board.

(F) To hear and decide any other matter as required by the provisions of this chapter and the Code of the Town of Franklin.

(G) To adopt rules not inconsistent with this chapter or the North Carolina General Statutes governing the organization of the Board and proceedings before the Board.
(Ord. passed 10-1-07)

§ 152.072 OFFICERS.

The Board shall elect one member to serve as Chair and preside over its meetings and shall create and fill such offices and committees as it may deem necessary. The term of the Chair and other offices shall be one year with eligibility for re-election. The Chair, or any member temporarily acting as chair, is authorized to administer oaths to any witnesses in any matter coming before the Board.
(Ord. passed 10-1-07)

§ 152.073 MEETINGS.

(A) The Board shall establish a regular meeting schedule and shall meet frequently enough so that it may take action as expeditiously as reasonably possible. All meetings of the Board shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public in accordance with the North Carolina General Statutes. The Board shall keep a record of its meetings, including attendance of its members, the vote of each member on every question, a complete summary of the evidence submitted to it, documents submitted to it, and all official actions.

(B) Any member of the Board who misses more than three consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the Board and shall be replaced or reappointed by the Board of Aldermen or the County Board of Commissioners, as appropriate. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Board, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.074 QUORUM AND VOTING.

A quorum of the Board, necessary to take official action, shall consist of six members. The concurring vote of six members shall be necessary in order to (1) approve an application for a variance, (2) reverse or modify any order, requirement, decision, or determination made by an administrative official, or (3) decide in favor of the applicant in any other matter on which the Board is required to act by this chapter. The concurring vote of a majority of those members present shall be necessary to conduct other business of the Board.
(Ord. passed 10-1-07)

§ 152.075 APPEALS OF ADMINISTRATIVE DECISIONS.

The Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of this chapter. An appeal may be taken by any person aggrieved by such decision or by an officer, department or board of the town. Such appeal shall be taken within ten days of the rendition of such decision by filing with the Board of Adjustment and the administrative

official a written notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Administrative Officer certifies to the Board of Adjustment, after the notice of appeal has been filed with him or her, that because of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature, a stay would seriously interfere with enforcement of this chapter. In such case proceedings shall not be stayed except by a restraining order, which may be granted by the Board or by a court of record on application, as provided for in the North Carolina General Statutes.
(Ord. passed 10-1-07)

§ 152.076 VARIANCES.

(A) A variance is a means whereby the town may grant relief from the effect of this chapter in cases of hardship. A variance constitutes permission to depart from the literal requirements of this chapter. A variance from the dimensional requirements of this chapter may be granted by the Board of Adjustment if it finds the following:

(1) Strict enforcement of the regulations would result in practical difficulties or unnecessary hardships to the applicant for the variance;

(2) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit; and

(3) In the granting of the variance the public safety and welfare have been secured and substantial justice has been done.

(B) Such findings shall be based on the following considerations:

(1) The fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not be considered as grounds for granting the variance.

(2) The hardship relates to the applicant's property rather than to personal circumstances.

(3) The hardship results from the application of this chapter and from no other cause, including the actions of the owner of the property or previous owners.

(4) The hardship is peculiar to the property in question rather than a hardship shared by the neighborhood or the general public.

(C) The Board of Adjustment shall not have authority to grant a variance when to do so would (1) result in the extension of a nonconformity regulated pursuant to §§ 152.150 - 152.154, herein, or (2) permit a use of land, building or structure which is not permitted within the applicable zoning district classification.
(Ord. passed 10-1-07)

§ 152.077 PROCESSING OF APPLICATIONS BEFORE THE BOARD OF ADJUSTMENT.

An application to the Board of Adjustment pursuant to the terms of this subchapter, whether it be in the nature of a request for a variance or an appeal from an administrative determination, must be received by the Land Use Administrator at least 20 days prior to the date of a Board of Adjustment meeting in order to be scheduled for such meeting.
(Ord. passed 10-1-07)

§ 152.078 JUDICIAL REVIEW.

Every decision of the Board of Adjustment may be appealed to the Superior Court by any aggrieved party. Such appeal shall be in the nature of certiorari and must be filed within 30 days after the filing of the decision in the office of the Land Use Administrator or after a written a copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the chairman of the Board at the time of its hearing of the case, whichever is later. The copy of the decision of the Board may be delivered to aggrieved parties either by personal service or by registered mail or certified mail return receipt requested.
(Ord. passed 10-1-07)

GENERAL DEVELOPMENT PROVISIONS

§ 152.090 APPLICATION OF REGULATIONS.

The regulations set forth in this chapter affect all land, every building, and every use of land and/or building and shall apply as specified herein.

(A) *Use.* No building or land shall hereafter be used or occupied, and no building or structure or part thereof shall be erected, moved or structurally altered except in conformity with the regulations of this chapter for the district in which it is located.

(B) *Height and density.* No building shall hereafter be erected or altered so as to exceed the height limit or to exceed the density regulations of this chapter for the district in which it is located.

(C) *Lot size.* No lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot width or depth, front, side or rear yard, lot area per dwelling unit, or other requirements of this chapter are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.

(D) *Yard use limitations.*

(1) No part of a yard or other open space required about any building or use for the purpose of complying with the provisions of this chapter shall be included as part of a yard or other open space similarly required for another building or use.

(2) *Allowable encroachments in yards.* Only the following structures and uses are permitted and may be encroachments in required yards as itemized in the following list.

Item	*Allowable Encroachment in Required Area*	*Yard Allowed*		
1	Awnings attached - not more than 42 inches, or in C-1 district only - not more than 60- inches (includes ROW)	F F	S	R R
2	Arbors or trellises - detached			R
3	Arbors or trellises - attached - not more than 3 feet	F		R
4	Air conditioning equipment enclosures, only as necessary on existing homes		S	R
5	Balconies - not more than 5 feet			R
6	Bay windows - not extending to foundation and not more than 3 feet deep and not more than 50% of width of the room in which it is a part	F		R
7	Canopies, marquees - attached - C-1 District only - not more than 72 inches (includes over ROW)	F F		R R
8	Eaves or gutters - cantilevered not more than 3 feet	F	S	R
9	Fences, finished side of fence to face abutting property	F	S	F
10	Ornamental light standards	F	S	R
11	Parking spaces - except as otherwise provided	F	S	R
12	Playground and laundry drying equipment			R
13	Play houses and pergolas			R
14	Retaining walls - decorative block, brick, or stucco over plain block	F	S	R
15	Signs and nameplates - per sign regulations	F	S	R
16	Sills, belt courses, cornices and ornamental features of the principal building - not more than 24 inches	F	S	R
17	Steps and stairs, open, and handicap ramps - for access to and from a principal building when required on existing buildings	F	S	R
18	Patios, no more than 5 feet on existing structures			R
19	Trees, shrubs, and other plants	F	S	R

(E) *One principal building on a lot.* Every building hereafter erected, moved or structurally altered shall be located on a lot, and in no case shall there be more than one principal building and its customary accessory buildings on the lot, except in the case of specially designed complexes of institutional, residential, commercial or industrial buildings in an appropriate zoning district classification.

(F) *Lot frontage.* All lots shall front on a public street.

(G) *Combining parcels or lots.* If combining parcels or lots, all parcels or lots shall be in the same zoning classification.

(H) *Recreational vehicles.* Recreational vehicles shall not be permanently affixed to the ground or utilities as a principal building or accessory structure on any lot. Recreational vehicles shall not be occupied for dwelling purposes at any time, unless parked in an authorized recreational vehicle park.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.091 INTERPRETATION OF DISTRICT REGULATIONS.

The regulations for the various zoning district classifications shall be enforced and interpreted according to the rules specified herein.

(A) *Uses.* Uses not designated as permitted, or special, shall be prohibited. Permitted uses subject to special requirements, and special uses shall be permitted only according to the additional regulations imposed. Permits for a special use shall be approved or disapproved by the Board of Aldermen.

(B) *Minimum regulations.* Regulations set forth by this subchapter shall be general requirements applicable to all uses in all district classifications, unless other regulations are more restrictive or establish a higher standard.

(C) *Land covenants.* Unless restrictions established by covenants with the land are prohibited by or are contrary to the provisions of this chapter, nothing herein contained shall be construed to render such covenants inoperative.
(Ord. passed 10-1-07)

§ 152.092 VISIBILITY AT INTERSECTIONS.

On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half feet and ten feet in a triangular area formed by a diagonal line between two points on the right-of-way lines, 20 feet from where they intersect. This regulation does not apply in the C-1 Central Business District.
(Ord. passed 10-1-07)

§ 152.093 OFF-STREET PARKING.

All developments, except for those situated within the C-1 Central Commercial Zoning District, shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question. No certificate of occupancy will be issued upon completion of the building unless all off-street parking and loading requirements, shown upon the plans or made part of the building permit, are in place and ready for use and conforming to requirements.

(A) *Presumptions.* The presumptions established by this section are that (1) a development must comply with the parking standards set forth in division (E) to satisfy the standard stated in § 152.094 and (2) any development that does meet these standards is in compliance. However, the parking space requirements contained in division (E) are only intended to establish a presumption and should be flexibly administered in accordance with division (F).

(B) *Separate uses.* The required parking for separate uses may be combined in one lot, but spaces assigned to one use may not be assigned to another use at the same time; provided, however, one-half of the parking spaces required for churches, theaters or assembly halls, whose peak attendance will be at night or on Sundays, may be assigned to a use which will be closed at night or on Sundays.

(C) *Remote parking.* If the required number of parking spaces cannot reasonably be provided on the same lot as the use being served, required parking spaces may be provided on any lot a substantial portion of which is within 200 feet of such uses.

(D) *Parking space design.* Each automobile parking space shall not be less than nine feet by 18 feet in area exclusive of adequate access drives and maneuvering space. Such space shall be provided with vehicular access to a street or alley. Parking spaces shall not thereafter be encroached upon or altered without prior development authorization as per §§ 152.050 - 152.062, above.

(E) *Use classifications and parking space requirements.* The number of parking spaces provided for any use or development shall equal or exceed the number determined for the use or development by the standards contained herein. It is recognized that the list of parking requirements contained in this section cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the permit issuing authority is authorized to determine the parking requirements using this table as a guide.

(1) Automobile car wash: One space for each two employees at maximum employment on a single shift. Reserve spaces equal to five times the capacity of the facility at the location of both ingress and egress.

(2) Automobile sales and repair: One parking space for each two employees at maximum employment on a single shift, plus two spaces for each 300 square feet of repair or maintenance space.

(3) Bowling alleys: Two spaces for each lane, plus one additional space for each two employees.

(4) Camps for tents and camping trailers: One parking space for each site provided for tents and camping trailers, plus ten additional spaces.

(5) Churches: One space for each four seats.

(6) Civic clubs and fraternal organizations: One space per 250 square feet of floor area.

(7) Congregate care facilities: One space for each independent dwelling unit; one space for every ten independent dwelling units to accommodate visitors; one space for every employee on the largest shift for the entire project; and one space for every four beds for assisted living or nursing care beds.

(8) Dance and fitness facilities: One space per 100 square feet of floor area.

(9) Elementary schools and middle schools (public and private): Two spaces for each classroom and administrative office.

(10) Filling stations: Two spaces for each gas pump, plus three spaces for each grease rack or similar facility.

(11) Hospitals: One space for each four patient beds, plus one space for each staff or visiting doctor, plus one space for each four employees.

(12) Hotels: One space per guest room, plus one additional space for each five employees.

(13) Kindergartens or nurseries: One space for each employee and four spaces for off-street drop-off and pick-up.

(14) Libraries: One space for each four seats provided for patron use.

(15) Medical offices and clinics: Six spaces for each doctor practicing at the clinic, plus one space for each employee.

(16) Mobile home parks: One space for each sleeping unit.

(17) Mortuary or funeral homes: One space for each four seats in the assembly room or chapel.

(18) Motel, tourist homes or tourist courts: One space per guest room plus two additional space for each 20 units.

(19) Music and art studios: One space per 150 square feet of floor area.

(20) Nursing homes: One space for each six patient beds, plus one space for each staff or visiting doctor, plus one space for every employee on the largest shift for the entire project.

(21) Offices: professional, business, or public, including banks: One space for each 400 square feet of gross floor area.

(22) Places of public assembly, including cultural arts buildings, private clubs and lodges, auditoriums, dance halls, theaters, stadiums, gymnasiums, amusement parks, community centers and all similar places of public assembly: One space for each four seats provided for patron use, plus one space for each 100 square feet of floor or ground area used for amusement or assembly but not containing fixed seats.

(23) Progressive care facilities: One space for each independent dwelling unit; one space for every ten independent dwelling units to accommodate visitors; one space for every employee on the largest shift for the entire project; and one space for every four beds for assisted living or nursing care beds.

(24) Recreational facilities, indoors: One space per 200 square feet of floor area.

(25) Residential dwellings: One space for each dwelling unit. Dwelling units exceeding 3, one and one-half spaces per unit.

(26) Rest and convalescent homes, homes for the aged and similar institutions: One space for each six patient beds, plus one space for each staff or visiting doctor, plus one space for every employee on the largest shift for the entire project.

(27) Restaurants (drive-in): One space for each three seats or stools plus one space for each two employees on the shift with the largest employment plus driveway(s) sufficient to accommodate queuing for five vehicles.

(28) Restaurants (in-door): One space for each three seats or stools plus one space for each two employees on the shift with the largest employment.

(29) Retail stores and shopping centers: One space for each 200 square feet of gross floor area. Provided, however, the developer of retail stores having unusually high percentages (greater than 40%) of gross floor areas used for inventory storage may apply for a reduction in the number of required spaces based upon the standard of one space for up to each 500 square feet of inventory storage. The reduction in the number of required spaces shall be granted only to a specific tenant. Subsequent tenant's parking needs will be determined by the Land Use Administrator.

(30) Rooming and boarding houses: One space for each three guest rooms, plus one additional space for the owners, if resident on the premises.

(31) Senior high schools and colleges (both public and private): One space for each ten students for whom the school was designed, plus one space for each classroom and administrative office.

(32) Wholesaling and industrial uses: One space for each two employees at maximum employment on a single shift.

(F) *Flexible administration.* It is recognized that, due to the particularities of any given development, the inflexible application of the parking standards set forth in division (E) may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation results in a waste of money as well as a waste of space that could more desirably be used for valuable development or environmentally useful open space. Therefore the permit-issuing authority may permit deviations from the presumptive requirements of division (E) and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the standard set forth in division (A).

(1) Without limiting the generality of the foregoing, the permit-issuing authority may allow deviations from the parking requirements set forth in division (E) when it finds the following:

(a) A residential development is irrevocably oriented toward the elderly.

(b) A business is primarily oriented toward walk-in trade or trade expected to arrive by means other than an automobile.

(2) Whenever the permit-issuing authority allows or requires a deviation from the presumptive parking requirements set forth in division (E) it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.
(Ord. passed 10-1-07)

§ 152.094 OFF-STREET LOADING AND UNLOADING.

Development and redevelopment projects in all districts except the C-1 Central Commercial District shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have access to an alley or, if there is no alley, to a street. For the purposes of this section an off-street loading space shall have a minimum dimension adequate to accommodate the largest vehicles expected to be served and, in any event, no less than 12 feet by 40 feet and an overhead clearance of 14 feet in height above the alley or street grade.

(A) *Retail operations:* One loading space for each 20,000 square feet of gross floor area or fraction thereof.

(B) *Wholesale and industrial operations:*

Building Area in Square Feet	*Number of Spaces*
0 - 40,000	1
40,000 - 100,000	2
100,000 - 160,000	3
160,000 - 240,000	4
240,000 - 320,000	5
320,000 - 400,000	6
Each 90,000, above 400,000	1 additional

(Ord. passed 10-1-07)

§ 152.095 ACCESSORY STRUCTURES.

Accessory structures shall not be located in any required front yard or any required front or side yard of a corner lot. In all other cases, the accessory structure shall meet the setback requirements for the zoning district classification in which it is located.
(Ord. passed 10-1-07)

§ 152.096 CALCULATION OF LOT AREAS.

No part of a road right-of-way lying within lot lines may be used in calculating minimum lot sizes requirements.
(Ord. passed 10-1-07)

§ 152.097 STORAGE CONTAINERS.

(A) For purposes of administering this section, the term "storage containers" shall include "storage trailers". Storage containers shall require permits from the Administrator; they shall be removed from the premises upon which they are located upon the expiration of the time period designed in the permit. One storage container per lot shall be permitted for a period not exceeding 90 consecutive days in a 12-month period. Storage containers shall meet all setback requirements for the zoning district in which they are located and shall be placed in the rear yard wherever possible. No storage container shall be permitted on a vacant lot. No storage container shall contain facilities for utility service. No storage container shall display any signs, lettering or advertising device, with the exception of a required owner identification sign with letters not to exceed three inches in height. This sign shall contain the name, address and phone number of the owner and may also contain a storage container identification number. These regulations shall not apply to the following:

(1) Construction service trailers used for offices or for storage of tools or materials on job sites for the duration of construction;

(2) Storage trailers used as construction service facilities which are a portion of the inventory of the equipment used by the business to transport materials from one job to another, and not used for purposes of storage.

(3) Storage trailers, on the lot of a storage trailer sales or rental business, that constitute part of the inventory of such business and that are not currently used for purposes of storage.

(B) Storage containers shall be permitted only in the C-3 Highway Commercial and I-1 Industrial zoning district classifications.
(Ord. passed 10-1-07)

§ 152.098 STREETS AND SIDEWALKS.

(A) Street classification. In all new subdivisions, streets that are dedicated to public use shall be classified as provided in herein. The classification shall be based upon the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day. The number of dwelling units to be served by the street may be used as a useful indicator of the number of trips but is not conclusive. Whenever a subdivision street continues an existing street that formerly terminated outside the subdivision or it is expected that a subdivision street will be continued beyond the subdivision at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the subdivision. The classification of streets shall be as follows.

(1) *Minor.* A street whose sole function is to provide access to abutting properties. It serves or is designed to serve not more than nine dwelling units and is expected to or does handle up to 75 trips per day.

(2) *Local.* A street whose sole function is to provide access to abutting properties. It serves or is designed to serve at least ten but not more than 25 dwelling units and is expected to or does handle between 75 and 200 trips per day.

(3) *Cul-de-sac.* A street that terminates in a vehicular turn-around.

(4) *Subcollector.* A street whose sole principal function is to provide access to abutting properties but is also designed to be used or is used to connect minor and local streets with collector or arterial streets. Including residences indirectly served through connecting streets, it serves or is designed to serve at least 26 but not more than 100 dwelling units and is expected to or does handle between 200 and 800 trips per day.

(5) *Collector.* A street whose principal function is to carry traffic between minor, local, and subcollector streets and arterial streets but that may also provide direct access to abutting properties. It serves or is designed to serve, directly or indirectly, more than 100 dwelling units and is designed to be used or is used to carry more than 800 trips per day.

(6) *Arterial.* A major street in the town's street system that serves as an avenue for the circulation of traffic into, out, or around the town and carries high volumes of traffic.

(7) *Marginal access street.* A street that is parallel to and adjacent to an arterial street and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the arterial street and so that the flow of traffic on the arterial street is not impeded by direct driveway access from a large number of abutting properties.

(B) *Access to public streets in general.* Every lot shall have either direct or indirect access to a public street. A lot has direct access to a public street if a sufficient portion of a boundary of the lot abuts the public street right-of-way so that an access way meeting the criteria set forth herein can be established. A lot has indirect access if it connects to a public street by means of one or more private roads that are of sufficient size to meet the criteria set forth herein.

(1) *Standard for access.* The access provided must be adequate to afford a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use.

(2) *Access to arterial streets.* Whenever a major subdivision that involves the creation of one or more new streets borders on or contains an existing or proposed arterial street, no direct driveway access may be provided from the lots within this subdivision onto this street.

(C) *Entrances to streets.* All driveway entrances and other openings onto streets within the town's planning jurisdiction shall be constructed so that (a) vehicles can enter and exit from the lot in question without posing any substantial danger to themselves, pedestrians, or vehicles traveling in abutting streets, and (b) interference with the free and convenient flow of traffic in abutting or surrounding streets is minimized.

(D) *Coordination with surrounding streets.* The street system of a subdivision or planned development shall be coordinated with existing, proposed and anticipated streets outside the development or outside the portion of a single tract that is being divided into lots (hereinafter, "surrounding streets") as provided in this section.

(1) Collector streets shall intersect with surrounding collector or arterial streets at safe and convenient locations.

(2) Subcollector, local, and minor residential streets shall connect with surrounding streets where necessary to permit the convenient movement of traffic between residential neighborhoods or to facilitate access to neighborhoods by emergency service vehicles or for other sufficient reasons, but connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through-traffic.

(3) Whenever connections to anticipated or proposed surrounding streets are required by this section, the street right-of-way shall be extended and the street developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the anticipated or proposed street is expected. In addition, the permit issuing authority may require temporary turn-arounds to be constructed at the end of such streets pending their extension when such turnarounds appear necessary to facilitate the flow of traffic or accommodate emergency vehicles. Notwithstanding the other provisions of this section, no temporary dead-end street in excess of 1,000 feet may be created unless no other practicable alternative is available.

(E) *Street width and drainage requirements in subdivisions and planned developments.* Street rights-of-way are designed and developed to serve several functions: (1) to carry motor vehicle traffic, and in some cases, allow on-street parking; (2) to provide a safe and convenient passageway for pedestrian traffic; and (3) to serve as an important link in the town's drainage system. All streets shall be constructed with curb and gutter and shall

conform to the other requirements of this section. Only standard 90E curb may be used, except that roll-type curb shall be permitted along minor and local streets within residential subdivisions. Street pavement width shall be measured from curb face to curb face where 90E curb is used, and from the center of the curb where roll-type curb is used.

Type Street	***Minimum Right-of-Way***	***Minimum Pavement Width***
Minor	40'	22'
Local	40'	22'
Subcollector	50'	34'
Collector	50'	34'

(F) *General layout of streets.*

(1) Subcollector, local, and minor residential streets shall be curved whenever practicable to the extent necessary to avoid conformity of lot appearance.

(2) To the extent practicable, driveway access to collector streets shall be minimized to facilitate the free flow of traffic and avoid traffic hazards.

(3) All permanent dead-end streets shall be developed as cul-de-sacs in accordance with the standards set forth in division (F)(4). Except where no other practicable alternative is available, such streets may not extend more than 550 feet (measured to the center of the turn-around).

(4) The right-of-way of a cul-de-sac shall have a radius of 30 feet. The radius of the paved portion of the turn-around (measured to the outer edge of the pavement) shall be 30 feet. The entire cul-de-sac shall be paved. No parking shall be permitted on the cul-de-sac.

(5) Half streets (i.e., streets of less than the full required right-of-way and pavement width) shall not be permitted except where such streets, when combined with a similar street (developed previously or simultaneously) on property adjacent to the subdivision, creates or comprises a street that meets the right-of-way and pavement requirements of this chapter.

(6) Streets shall be laid out so that residential blocks do not exceed 1,000 feet, unless no other practicable alternative is available.

(G) *Street intersections.*

(1) Streets shall intersect as nearly as possible at right angles, and no two streets may intersect at less than 60 degrees. No more than two streets shall intersect at any one point, unless the public works director certifies to the permit issuing authority that such an intersection can be constructed with no extraordinary danger to public safety.

(2) Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of such street. In any event, where a center line offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than 150 feet.

(3) No two streets may intersect with any other street on the same side at a distance of less than 400 feet measured from centerline to centerline of the intersecting street. When the intersected street is an arterial, the distance between intersecting streets shall be at least 1,000 feet.

(H) *Construction standards and specifications.* Except as modified herein, streets shall be designed to comply with the design and construction standards of the North Carolina Department of Transportation.

(I) *Road and sidewalk requirements in unsubdivided developments.* Within unsubdivided developments, all private roads and access ways shall be designed and constructed to facilitate the safe and convenient movement of motor vehicle and pedestrian traffic. Width of roads, use of curb and gutter, and paving specifications shall be determined by the provisions of this chapter dealing with parking and drainage. To the extent not otherwise covered in the foregoing subchapters, and to the extent that the requirements set forth in this subchapter for subdivision streets may be relevant to the roads in unsubdivided developments, the requirements of this subchapter may be applied to satisfy the standard set forth in the first sentence of this subsection.

(1) Whenever a road in an unsubdivided development connects two or more subcollector, collector, or arterial streets in such a manner that any substantial volume of through traffic is likely to make use of this road, such road shall be constructed in accordance with the standards applicable to subdivision streets and shall be dedicated. In other cases when roads in unsubdivided developments within the town are constructed in accordance with the specifications for subdivision streets, the town may accept an offer of dedication of such streets.

(2) In all unsubdivided multi-family residential developments, sidewalks shall be provided linking dwelling units with other dwelling units, the public street, and on-site activity centers such as parking areas, laundry facilities, and recreational areas and facilities. Notwithstanding the foregoing, sidewalks shall not be required where pedestrians have access to a road that serves not more than nine dwelling units.

(3) Whenever the permit issuing authority finds that a means of pedestrian access is necessary from an unsubdivided development to schools, parks, playgrounds, or other roads or facilities and that such access is not conveniently provided by sidewalks adjacent to the roads, the developer may be required to reserve an unobstructed easement of at least ten feet to provide such access.

(4) In unsubdivided nonresidential developments that abut a public street, sidewalks shall be constructed adjacent to such street if a sidewalk in that location is necessary to continue a pre-existing sidewalk. Whenever possible, such sidewalk shall be constructed within the public right-of-way.

(5) The sidewalks required by this section shall be at least four feet wide and constructed according to the specifications of the town, except that the permit issuing authority may permit the installation of walkways constructed with other suitable materials when it concludes that (a) such walkways would serve the residents of the development as adequately as concrete sidewalks and (b) such walkways could be more environmentally desirable or more in keeping with the overall design of the development.

(6) *Attention to handicapped in street and sidewalk construction.* Whenever curb and gutter construction is used on public streets, wheelchair ramps for the handicapped shall be provided at intersections and other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with published standards of the North Carolina Department of Transportation, Division of Highways. In unsubdivided developments, sidewalk construction for the handicapped shall conform to the requirements of the North Carolina State Building Code.

(7) *Street names and house numbers.*

(a) Street names shall be assigned by the developer subject to the approval of the permit issuing authority. Proposed streets that are obviously in alignment with existing streets shall be given the same name. Newly created streets shall be given names that neither duplicate nor are phonetically similar to existing streets within the town's planning jurisdiction, regardless of the use of different suffixes (such as those set forth in herein). Street names shall include a suffix such as the following:

1. *Circle:* A short street that returns to itself.

2. *Court or place*: A cul-de-sac or dead-end street.

3. *Loop:* A street that begins at the intersection with one street and circles back to end at another intersection with the same street.

4. *Street:* All public streets not designated by another suffix.

(b) Building numbers shall be assigned by the town in coordination with the Macon County street-addressing program.

(J) *Bridges.* All bridges in subdivided and unsubdivided developments shall be constructed in accordance with the standards and specifications of the North Carolina Department of Transportation, except that bridges on roads not intended for public dedication in unsubdivided developments may be approved if designed by a licensed architect or engineer.

(K) *Sidewalk requirements.* All new development or redevelopment shall have sidewalks, with curb and gutter and necessary storm sewer, along each public street abutting the development in accordance with the standards of the town.

(1) All costs associated with the sidewalk, curb and gutter, and storm sewer shall be borne by the developer.

(2) All sidewalk, curb and gutter, and storm sewer shall be dedicated to the town for perpetual maintenance. All such dedicated improvements shall be guaranteed for one year following the date of acceptance by the town. Any defects in material and/or workmanship during the one-year period shall be immediately corrected by the developer.

(3) Payment of fee in lieu of construction of sidewalks. When site characteristics and/or traffic patterns are such that the construction of sidewalks in accordance with this section would be a hardship and would not result in useful pedestrian walkways, the

Town Administrator may allow the applicant to pay the cost of constructing such sidewalks into the Town Sidewalk Fund in lieu of requiring construction of the sidewalks.
(Ord. passed 10-1-07)

§ 152.099 NUISANCES.

It shall be a violation of this chapter to operate any use in such a fashion as to constitute a nuisance as specified in this section.

(A) *Noise.* Other than ordinary construction activities, no use shall be operated so as to generate recurring noises that are unreasonably loud, cause injury, or create a nuisance to any person of ordinary sensitivities. No nonresidential use shall be operated so as to generate any noise in an adjacent district, as detected in that district without instruments, that is louder than the noise which could be generally expected from uses permitted in that district.

(B) *Fumes and odors.* No use shall emit fumes, gases, or odors in concentrations or amounts that cause injury or create a nuisance to any person of ordinary sensitivities on another property.

(C) *Vibration.* Other than ordinary construction activities, no use shall be operated so as to generate inherent or recurring ground vibrations detectable at the property line which create a nuisance to any person of ordinary sensitivities on another property.

(D) *Lighting.* Lighting facilities, if provided, shall be aimed, directed, shielded or arranged so the light sources for such facilities do not cause undue glare on neighboring properties or interfere with the safe use of public rights-of-way.
(Ord. passed 10-1-07)

§ 152.100 BURDEN OF PROOF.

The burden of proof shall rest with the applicant in all proceedings required or authorized by this chapter.
(Ord. passed 10-1-07)

§ 152.101 RIGHTS-OF-WAY FOR ROADS AND STREETS.

(A) *Reservation of right-of-way.* The orderly development of land is dependent upon the protection of existing and proposed major roadways in the town. The provisions of this section are intended to provide for the reservation of right-of-way for such roadways under appropriate conditions.

(1) *Reservation under the roadway corridor official map act.* Pursuant to authority granted by G.S. Ch.136, Art. 2E, the town or the NCDOT may from time to time adopt, amend, supplement or change a roadway corridor official map for any streets or roadways identified on the town's thoroughfare plan.

(a) After a roadway corridor official map is filed with the Register of Deeds, no building permit shall be issued for any building or structure or part thereof located within the roadway corridor, nor shall approval of a subdivision be granted with respect to property within the roadway corridor. The provisions of this section shall not apply to valid building permits issued prior to the effective date of this section or to building permits for buildings and structures which existed prior to the filing of the roadway corridor, provided the size of the building or structure is not increased and the type of building code occupancy is not changed.

(b) No application for building permit issuance or subdivision plan approval shall be delayed by the provisions of this section for more than three years from the date of the original building permit or subdivision plan submittal.

(2) *Setbacks for existing roadways.* Applicants for development authorization for parcels adjoining existing roadways identified on the town's thoroughfare plan shall propose locations for structures and other improvements which do not encroach upon the proposed rights-of-way listed in such plan.

(3) *Variances.* A variance from the provisions of this section may be granted by the Board of Adjustment or by Board of Aldermen, as appropriate, upon demonstration (a) that the requirements of this section result in practical difficulties or unnecessary hardships and (b) that no reasonable return may be earned from the land. For purposes of determining whether any reasonable use may be earned, the entire parcel will be considered, not just that portion lying within the bounds of the existing or proposed roadway.

(B) *Dedication of right-of-way with density transfer.* Whenever a tract of land located within the planning jurisdiction of the town is proposed for a use requiring development authorization under §§ 152.050 - 152.062 herein and a portion of it is

embraced within a corridor for a street or highway on a plan established and adopted pursuant to G.S. § 136-66.2, the town may require the applicant to dedicate for street or highway purposes the right-of-way within such corridor. If the town elects to require such dedication it shall allow the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the applicant. No dedication of right-of-way shall be required pursuant to this section unless the entity granting development authorization shall find, prior to the grant, that the dedication does not result in the deprivation of a reasonable use of the original tract and that the dedication is either reasonably related to the traffic generated by the proposed subdivision or use of the remaining land or the impact of the dedication is mitigated by measures provided elsewhere in the Zoning Ordinance.
(Ord. passed 10-1-07)

§ 152.102 OPEN SPACE STANDARDS.

Open space is intended to provide recreational opportunities, to conserve and protect significant natural areas and environmentally sensitive areas, to conserve important historic resources, and/or to conserve productive farming and forestry uses. Functional open space enhances circulation within a site and contributes to the site's aesthetic qualities. Open space may include any out-of-doors common space and any portion of the site not covered by a building or vehicular use area. Where required, open space shall meet or exceed the standards contained in this section.

(A) *Extent of open space.* Open space requirements are expressed as a percentage of the area of a development in the standards for some zoning classifications contained in §§ 152.020 - 152.041. Open space shall meet or exceed this stated percentage. The following standards shall be used in determining which portions of a development site are to be designated as open space.

(1) *Primary conservation areas.* The following areas are considered primary conservation areas and shall be designated as open space on development plans when open space is required.

(a) Designated floodways and floodway fringes identified as part of a flood insurance study prepared by the Federal Emergency Management Agency;

(b) Natural watercourses and any adjoining stream buffers required to be maintained in a natural vegetated and unaltered state pursuant to §§ 152.190 - 152.199 hereof. All primary conservation areas shall be designated as open space even if doing so results in open space which exceeds the amount required by the open space standard contained in §§ 152.020 - 152.041.

(2) *Secondary conservation areas.* The following areas are considered secondary conservation areas. When open space is required for a development, some or all the secondary conservation areas on the development site shall be designated as open space to the extent it is necessary to meet the applicable open space standard.

(a) Any identified significant natural areas (e.g., rare plant communities, important wildlife habitat) or other environmentally sensitive areas where development might threaten water quality or ecosystems (e.g., watershed buffers, groundwater recharge areas).

(b) Any identified important historic resources (e.g., homesteads, mills, barns, archeological sites) identified from a local archeological or architectural survey or an individual site survey.

(c) Productive farmland or forest land intended for continued agricultural and/or forestry use.

(3) *Additional open space.* When primary and/or secondary conservation areas do not equal or exceed the open space standard for a development site, additional lands shall be designated as open space in order to meet such standard.

(B) *Open space design.* Provided such use is not inconsistent with §§ 152.190 - 152. 199 and with other applicable regulations, open space may be used to provide active and/or passive outdoor recreation opportunities (e.g., ballfields, playgrounds, tennis courts, swimming pools, basketball courts, golf courses, bikeways, walking trails, nature trails, and picnic areas), either for the general public or for the subdivision's residents or employees and their guests.

(1) Open space may contain only such buildings, structures, access ways, and parking facilities as are necessary and accessory to its principal uses, e.g., pedestrian path, recreational clubhouse, utility lines, driveway, small parking area, barns and other farm storage and processing facilities.

(2) The location, size, character, and shape of required open space shall be appropriate to

its intended use (e.g., open space proposed to be used for recreation, particularly active recreation, shall be located and designed so as to be conveniently and safely reached and used by those persons it is intended to serve, and open space proposed to be used for ballfields, playing fields, or other extensive active recreational facilities should be located on land that is relatively flat and dry).

(3) *Ownership and maintenance of open space.* Arrangements for the perpetual maintenance of open space must be approved in writing by the Land Use Administrator. Any conveyance to a homeowners association shall be subject to restrictive covenants and easements reviewed and approved by the Land Use Administrator which shall prohibit future development of any open space for other than open space or recreation purposes and shall provide for continued maintenance of any open space and recreational facilities.
(Ord. passed 10-1-07)

§ 152.103 COMMON SPACE STANDARDS.

Certain developments are required to develop a specified portion of the development site as common space. Where required, common space shall meet or exceed the standards contained in this section.

(A) *General design standards.* Common space is intended to shape the design and character of a project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. It shall be designed to create areas where workers, residents and shoppers, as the case may be, are directly or indirectly invited to gather, browse, sit, interact or congregate. It shall be arranged as community space with open areas, landscaping, seating facilities and lighting fixtures which provide for safety and visual effects. Common spaces are intended to be places for social interaction and, thus, may include impervious surfaces. Unless interior common space is approved by the reviewing authority, common space shall be out-of-doors.

(B) *Specific design standards.* In addition to the general design standards contained in § 152.105(A), common space design shall comply with the following.

(1) *Trees.* One tree shall be planted for each 500 square feet of common space. Trees shall have a minimum caliper of three to three and one-half inches measured six inches above ground at the time of planting.

(2) *Utilities.* All utilities service lines and connections shall be underground.

(3) *Seating.* Seating shall be provided to accommodate workers, residents and/or shoppers. Seating may be accomplished in whole or in part using planters or other similar structures.

(4) *Amenities.* Common space for a development shall contain adequate amenities to animate and enliven the environment and to make it conducive for social interaction. Following is a list of such amenities: ornamental fountains, stairways, waterfalls, public art, arbors, trellises, planted beds, drinking fountains, clock pedestals, awnings, canopies, informational kiosks, and similar structures. This list is not intended to be exhaustive.

(C) *Lands which may be designated as common space. The* following standards control what lands in a development may be designated as common space.

(1) Primary conservation areas shall not be designated as common space absent authorization from the town in those circumstances where, due to careful design, the land in question can fulfill the function of common space without compromising the purposes served by primary conservation areas.

(2) Land that is burdened with easements may be used provided that the easements do not interfere with the use of the land for common space and do not permit future development.

(D) *Ownership and maintenance of common space.* Arrangements for the perpetual maintenance of common space must be approved in writing by the Land Use Administrator. Any conveyance to a homeowners association shall be subject to restrictive covenants and easements reviewed by the Land Use Administrator and recorded and filed in accordance with the times specified in this section. The covenants and easements shall prohibit future development of any common space for other than the purposes specified herein and shall provide for continued maintenance of any such common space.

(E) *Completion of common space.* All common space shall be set aside and improved no later than the following applicable date:

(1) For subdivisions: prior to the sale of any lot;

(2) For planned developments: no later than the date on which certificates of occupancy are issued for the first 75% of the total number of dwelling units to be constructed in the project area.
(Ord. passed 10-1-07)

§ 152.104 SEPARABILITY.

Should any section or provision of this chapter be declared invalid by any court, such declaration shall not affect the validity of this chapter as a whole or any part thereof which is not specifically declared to be invalid.
(Ord. passed 10-1-07)

§ 152.105 TRANSPORTATION IMPACT ANALYSIS.

The purpose of a transportation impact analysis (TIA) is to assess the impact of a proposed development on the existing transportation system. A TIA will (1) ensure that the transportation network has adequate capacity to handle projected transportation demand associated with the project, (2) identify problems with the transportation system, (3) delineate solutions to identified problems, and (4) identify improvements to be incorporated into the proposed development.

(A) *Required.* Applicants for development authorization in which the proposed development, redevelopment, or change of use is expected to generate 100 or more peak-hour trips (a.m. or p.m.) or 1,000 or more trips daily shall have prepared by a qualified professional a TIA meeting the guidelines established in this section. In addition to the foregoing, the Planning Director shall have the discretion to require a TIA when there are localized safety or capacity deficiencies.

(B) *Presubmittal conference.* An applicant for development authorization for any project expected to meet or exceed one or both of the TIA thresholds specified in division (A), above, shall schedule a presubmittal conference with the town. The engineering firm selected to prepare the TIA shall attend this meeting the purpose of which is to establish the study area, the trip distribution, the traffic counts to be utilized, approved developments in the area, pass-by and internal capture percentages, additional hours of analysis, if required (other than a.m. or p.m. peak), and resolve any other questions specific to the site.

(C) *TIA submission.* Three copies of the TIA, if required, shall accompany the application for development authorization. The TIA shall be prepared by a licensed engineer registered to practice in the State of North Carolina who shall have traffic assessment and transportation management experience. At a minimum, the TIA shall include the following:

(1) Study purpose and objectives.

(2) Description of the site and study area boundaries including appropriate mapping and rationale for selection of the study area boundaries.

(3) A summary of existing conditions including, but not limited to, surrounding street and key intersection traffic volumes (daily and peak-hour), turning movements, capacities, safety deficiencies, and funded transportation improvements.

(4) Anticipated or approved development in the area.

(5) Trip generation, trip distribution, and discussion of the following:

(a) Trip generation rates shall be based on trip generation rates contained in the latest edition of Trip Generation published by the Institute of Transportation Engineers (ITE). The applicant shall also provide the ITE code used to identify the development trip generation rate and assumptions used or data collected for any variations from generally accepted ITE rates or equations.

(b) Pass-by trip factors and assumptions.

(c) Internal trip assumptions for mixed use developments.

(d) Trip distribution assumptions.

(6) Projection of future traffic volumes and assessment of future roadway and intersection operating conditions for the year of the ultimate completion of the project. All projections should specifically document projected background traffic as well as the traffic generated by the proposed development. If the project is to be phased; projections for each phase of the development is required. If the unphased build-out period of the project is greater than nine years, then a minimum of one intermediate and one full build-out projection is required. All projections and assessments should include the following three scenarios:

(a) No build.

(b) Maximum possible development under existing use or zoning. Applicant shall conduct assessment of project phasing. The impact of the development of a particular phase is not to be compared with the total possible build-out of the entire project location.

(c) The development as proposed.

(7) Analysis of the key elements of the development and evaluation of the impacts of the development on the following:

(a) *Generalized peak hour and/or daily Link Level of Service (LOS) analysis.* Using the peak hour directional volumes and daily traffic volumes forecast and service thresholds, a general evaluation shall be made of the street system for the short term and long-term horizon years. If the project is to be phased; then an assessment of conditions after the completion of each phase of the development is required. Incremental differences attributable to the land use action shall be identified. A map showing generalized levels of service shall be presented for each design year.

(b) *Access analysis.* The deign, number, and location of access points to collector and arterial roadways must be fully analyzed. The number of access points shall be kept to a minimum and be designed to be consistent with the type of roadway facility. Access analysis shall include a strip accident, intersection accident analysis and bicycle/ pedestrian analysis.

(c) *Intersection analysis (signal warrant analysis, phasing analysis, intersection crash analysis and progression analysis).* The appropriateness of the development's access locations and type must be established. For full-access locations, a signal warrant analysis based on the Manual on Uniform Traffic Control Devices must be conducted for each design year. Traffic signals specifically warranted by the land use action shall be identified.

(d) *Peak hour intersection level of service.* An a.m. and p.m. peak hour intersection level of service analysis shall be conducted for each intersection, based on procedures specified in the most recent release of the Highway Capacity Manual. Levels of service for signalized intersections shall be based on the signal timings developed for the signal progression analysis.

(e) *Turn lane storage requirements.* Turn lane storage needs shall be identified for the "warranted" situation, based on projected turning volumes and AASHTO analytic techniques. Appropriate documentation of the calculations must be provided.

(f) *Sight distance.* The identification of sight distance at the development entrances and all internal streets shall be conducted.

(g) *Appropriateness of acceleration or deceleration lanes.* All proposed development access points on arterials shall be evaluated to determine the need for acceleration lanes or deceleration lanes, with justification and basis provided for recommendations.

(h) *Pedestrian and bicycle analysis.* Continuity and adequacy of pedestrian and bike facilities shall be provided to the nearest attraction (exiting or planned) within 1/4 mile of the development site. Destinations of significance include bus stops, elementary schools, parks, activity centers and major bicycle facilities. Adherence to the Americans with Disabilities Act (ADA) shall be required.

(i) *Public transportation analysis.* Existing and proposed (if any) public transportation facilities analysis shall be provided.

(j) *Special analysis/issues.* The town may require specific focused traffic analyses relative to the proposed development.

(8) Recommendations for site access and transportation improvements or mitigation measures needed to maintain traffic flow to, from, within and adjacent to the proposed development at an acceptable and safe level of service (generally assumed at LOS D or better). Any recommendations for roadway improvements should identify funding sources for these improvements.

(9) Data collected for the study shall be made available to the town for evaluation of the study conclusions. The format for date submission as well as format for data to be provided to the town will be determined at a pre-consultation meeting between the applicant and the town.
(Ord. passed 10-1-07)

SPECIAL REQUIREMENTS FOR CERTAIN USES

§ 152.120 PURPOSE.

This subchapter provides for the regulation of certain land uses which, because of their nature or locational requirements, demand additional unique standards in order to be compatible with other permitted or permissible uses within the relevant zoning district.
(Ord. passed 10-1-07)

§ 152.121 APPLICABILITY.

These standards apply to a particular use only when it is designated as a special use, or a "permitted use subject to special requirements" in any particular zoning classification. They do not apply when a use is a permitted use, that is, permitted by right. In such a situation, the development and dimensional standards for the zoning classification and other applicable standards will guide development and use. It is important to note this distinction because the same use may be a special use or a permitted use subject to special requirements in one zoning classification, in which case the standards contained in this subchapter would apply, and a permitted use in another classification, in which case they would not. The standards contained in this subchapter also serve as minimum requirements for developments undergoing special use review; provided, however, nothing herein shall be construed to limit applicants from proposing, and the Board of Aldermen from approving, plans which exceed these standards.
(Ord. passed 10-1-07)

§ 152.122 PROCEDURES FOR APPLYING STANDARDS.

This subchapter does not distinguish between standards on the basis of procedural review. Please refer to the appropriate zoning classification to determine if the proposed use is a special use or a permitted use subject to special requirements. If the proposed use is a special use or a permitted use subject to special requirements, the standards will be applied during the applicable development review procedure in accordance with §§ 152.050 - 152.062, above.
(Ord. passed 10-1-07)

§ 152.123 STANDARDS.

As stated herein, the following standards apply to the indicated use when such use is either a special use or a permitted use subject to special requirements. These standards are in addition to other applicable development standards contained in this chapter.

(A) *Accessory dwelling units.*

(1) Accessory dwelling units may only be situated on a lot on which a principal residential dwelling unit is also situated and shall be clearly incidental or accessory to such principal residential structure.

(2) No more than one accessory dwelling unit may be situated on any lot.

(3) Accessory dwelling units may not exceed 800 square feet of floor area.

(4) The lot shall comply with the minimum lot size requirement for the zoning classification in which it is situated.

(5) The structure containing the accessory dwelling unit shall comply with the set back requirements for the zoning classification in which it is situated.

(B) *Adaptive reuses.*

(1) This section is intended to allow a means for the development of new uses for a building originally designed for a different use. It is intended to have application in two particular areas. The first is for the reuse of a structure which has been used historically for a use permitted in the zoning district classification but for which there is no longer any reasonable demand for such previous use. Example of this first class include church buildings and schools. The second class involves situations in which structures have been devoted historically to a nonconforming use, the owner of the property no longer desires to devote the property to that use or the use has ceased, and there is no reasonable likelihood that the property will revert to a use permitted in the zoning district classification.

(2) Adaptive reuses may only be authorized by means of special use permits processed through the special use review requirements of §§ 152.050 - 152.062, above. In addition to the standards set forth therein, adaptive reuses must also meet the following special requirements.

(a) The developer proposes the reuse of a structure or structures used historically for a use permitted in the zoning district classification but for which there is no longer any reasonable demand for such previous use, or the developer proposes the reuse of a structure or structures used historically as nonconforming use and there is no reasonable likelihood that the property will revert to a use permitted in the zoning district classification.

(b) The developer shall state the precise nature of the proposed adaptive reuse, which shall be compatible with neighboring residential uses. If a special use permit is granted for the adaptive reuse, future use of the property shall be limited to the specified use unless (1) the use is

changed to another use permitted in the zoning classification or (2) a new adaptive reuse is approved.

(c) The adaptive reuse shall be housed in an existing structure or structures.

(d) Such structures may be modified or expanded so long as the gross floor area is not increased by more than 10%, so long as the development complies with the open space requirement in division (B)(2)(h), below, and so long as the appearance of the modification is in harmony with the neighboring residential uses.

(e) Off-street parking meeting the requirements of § 152.093, herein, shall be provided. Such off-street parking shall be screened so that it is not readily visible from the street or from adjoining residential uses.

(f) The adaptive reuse may have one sign not to exceed six square feet in area or conforming to the sign requirements for the zoning district where adaptive reuse is located.

(g) The developer shall propose, install and maintain landscaping which will assist in giving it a residential appearance.

(h) The adaptive reuse shall provide open space which shall be not less than the existing open space on the property or 60% of the total area of the development parcel, whichever is less.

(i) Lighting for the adaptive reuse shall be no more than is necessary for safe use of the facility, and shall be designed and installed so that it is directed away from the roadway and any adjacent properties.

(j) Traffic generated by the adaptive reuse shall not be expected to cause an inconvenience to residents of the neighborhood.

(k) The developer shall propose hours of operation for the adaptive reuse which are designed to be compatible with neighboring residential uses. Such hours of operation shall become a condition of the special use permit, violation of which shall be grounds for revocation of the permit.

(C) *Animal boarding facilities.* The standards in this section apply to facilities, such as animal kennels and animal shelters, where the primary purpose is the boarding of household pets. It shall not apply to boarding facilities incidental to the operation of an animal hospital or clinic or to pet stores.

(1) No animal boarding facility shall be operated without all necessary licensure, certification or other form of permission from the state and any other governmental agency with jurisdiction over its operation. Loss of such permission shall be grounds for revocation of any conditional or special use permit authorizing an animal boarding facility.

(2) No animal boarding facility shall be located within 500 feet of the nearest lot line of a residential use or a residential zoning district.

(3) Animal boarding facilities shall be adequately buffered to prevent sounds from constituting a nuisance to neighboring properties.

(4) Housing facilities for animals shall be structurally sound and shall be maintained in good repair, shall be designed so as to protect the animals from injury, shall contain the animals, and shall restrict the entrance of other animals.

(5) Electric power shall be supplied in conformance with the state electrical codes adequate to supply lighting and heat as may be required by this section. Water shall be supplied at sufficient pressure and quantity to clean indoor housing facilities and primary enclosures of debris and excreta.

(6) Food and bedding shall be stored at facilities adequate to provide protection against infestation or contamination by insects or rodents. Refrigeration shall be provided for the protection of perishable foods.

(7) The applicant shall establish procedures for the safe and sanitary removal and disposal of animal and food waste, bedding, dead animals and debris and shall abide by such procedures. Disposal facilities shall be maintained in a sanitary condition, free from the infestation or contamination of insects or rodents or disease, and from obnoxious or foul odors.

(8) Washroom facilities, including sinks and toilets, shall be provided for animal caretakers.

(9) Indoor housing facilities shall be adequately ventilated to provide for the health of animals contained therein and to assist in the removal of foul and obnoxious odors. Provision shall be made so that the volume of air within any enclosed indoor facility shall be changed three times or more each hour. This may be accomplished through the location and periodic opening of doors and windows. If fans or ventilating equipment are used, they shall be constructed in conformance with current standards of good engineering practice with respect to noise and minimization of drafts.

(10) Indoor housing facilities for animals shall have sufficient natural or artificial lighting to permit routine inspection and cleaning at any time of day. In addition, sufficient natural or artificial lighting shall be supplied in the area of sinks and toilets to provide for the hygiene of animal caretakers.

(11) Interior wall, ceiling and floor surfaces of indoor housing facilities shall be constructed of materials which are resistant to the absorption of moisture and odors, or such surfaces shall be treated with a sealant or with paint when such materials are not originally resistant to moisture or odors. Floor surfaces shall not be unsealed wood. In addition, interior walls shall be constructed so that the interface with floor surfaces is sealed from the flow or accumulation of moisture or debris.

(12) Indoor housing facilities shall contain a drainage system which shall be connected to a sanitary sewer or septic tank system which conforms to the standards of the state building code and shall be designed to rapidly remove water and excreta in the cleaning of such indoor housing facility under any condition or weather or temperature.

(13) Outdoor facilities shall be constructed to provide shelter from excessive sunlight, rain, snow, wind or other elements. In addition, such facilities shall be constructed to provide sufficient space for the exercise and movement of each animal contained therein.

(14) All outdoor facilities shall be constructed to provide drainage and to prevent the accumulation of water, mud, debris, excreta or other materials, and shall be designed so that all animal and food wastes are directed into an approved sanitary sewer system or septic tank.

(15) All outdoor facilities shall be constructed with adequate walls or fences to contain the animals kept therein and to prevent entrance of other animals.

(16) Primary enclosures for animals shall be constructed and maintained so as to provide sufficient space to allow each animal to turn about freely and to easily stand, sit and lie in a comfortably normal position.

(17) Facilities shall be operated in compliance with regulations adopted pursuant to the Animal Welfare Act, G.S. §§ 19A-20, et seq., as it may be amended from time to time.

(18) No animal boarding facility shall be operated at any time after it has been designated by a public health official pursuant to town, state or federal statues or regulations concerning health, as being infested with insects, rodents or disease which may endanger the public health, until the health officer having jurisdiction shall have certified that the condition has been corrected and the premises then comply with applicable health standards and regulations.

(D) *Assisted living facilities.*

(1) Such facilities may only be situated on a site which contains no less than three acres.

(2) A minimum of 65% of the project tract shall be designated as open space.

(3) Maximum density for rest homes shall be 26 people per acre in all zoning district classifications. In determining the number of people per acre, it is assumed that each room where ambulatory assistance or skilled nursing care is given contains one person per bed in the room. The Board of Aldermen shall have the right to determine a lower density applying as criteria the following: site constraints including but not limited to slopes over 20%, poor soils, presence of floodplain, or other factors such as the traffic-bearing capability of existing roads that would pose a threat to public health, safety or welfare, or violate any of the review standards contained in this subchapter.

(4) Density under this subsection shall be calculated according to the following formula:

(a) Studio apartments shall be assumed to house one person;

(b) One-bedroom apartments shall be assumed to house 1.5 persons;

(c) Two-bedroom apartments shall be assumed to house two persons; and

(d) Each bed assigned to ambulatory assistance or skilled nursing care is assumed to accommodate one person.

(5) No application for a development authorization for an assisted living facility shall be considered unless a certificate of need, if required, has been issued by the North Carolina Department of Health and Human Services, or successor thereto. The certificate of need shall accompany the application.

(E) *Bed and breakfast facilities.*

(1) The facility shall be located in a structure originally constructed as a single-family dwelling or as an inn.

(2) The facility shall be limited in the number of guest rooms it contains. Bed and breakfast facilities in residential districts shall contain no more than six guest rooms. Bed and breakfast facilities in other zoning districts shall contain no more than eight guest rooms.

(3) The owner of the bed and breakfast or a resident manager shall live on the premises.

(4) There shall be no exterior advertising except a sign not to exceed six square feet in area in a residential district or conforming to the sign requirements for the zoning district where the bed and breakfast facility is located.

(5) The facility shall meet all building and fire codes, as well as all health regulations and all other applicable requirements, including any regulations adopted under authority of, the North Carolina General Statutes.

(6) There shall be a buffer strip meeting the specifications of §§ 152.170 - 152.179 along any property adjoining a residential use or district.

(7) No cooking facilities shall be allowed in the lodging units unless authorized by the Macon County Health Department.

(8) Two off-street parking spaces shall be provided for the dwelling unit, and one off-street space shall be provided for each lodging unit. Parking area(s) in or adjacent to residential use districts shall be screened by vegetation, fencing or walls so that vehicles are not visible from the street or from adjacent properties. The applicant shall submit a site plan which shall indicate where the parking is to be located and the manner in which it is to be screened.

(F) *Cemeteries.*

(1) Tombstones, crypts, monuments, mausoleums, columbaria, and other structures associated with cemeteries must be located at least 25 feet from any side or rear lot line which adjoins lots in a residential district and at least ten feet from any side or rear lot line which adjoins lots in nonresidential districts. In any case, they must be at least 40 feet from any street right-of-way.

(2) Buildings for the maintenance, management, rent and/or sale of cemetery lots must be located at least 100 feet from any lot lines which adjoin lots in any residential district. Otherwise any such buildings must conform to the requirements for principal uses in the district where they are located.

(3) Crematory services may be provided for human corpses as an accessory use within cemeteries situated on a site containing at least 30 acres, subject to the following special requirements:

(a) All applicable local, state, and federal laws and regulations shall be complied with.

(b) The crematory shall be enclosed within a building meeting Building and Fire Code requirements.

(c) The placement of crematory facilities within property in any residential district shall be 100 feet or more from any exterior property line.

(G) *Child care centers.*

(1) Play space must be provided in accordance with the regulations of the North Carolina Department of Human Resources. Any required outdoor play space must be fenced or otherwise enclosed on all sides and may not include driveways, parking areas or land otherwise unsuited for children's play space and may not be in the required setback.

(2) Setback, yard and height requirements will be the minimum required for the zoning classification in which it is located.

(3) Parking shall be provided as specified in §§ 152.090 - 152.105, above.

(4) No outdoor play shall be permitted after sundown.

(H) *Civic clubs and fraternal organizations.*

(1) All buildings, off-street parking and service areas will be separated by a buffer meeting the requirements of §§ 152.170 - 152.179 from any abutting residential use or residential district.

(2) The use will be located on a lot that fronts a minor or major thoroughfare and primary vehicular access will be provided by means of such minor or major thoroughfare.

(I) *Cultural arts buildings.*

(1) The provision of off-street parking in accordance with the standard for places of public assembly contained in §§ 152.090 - 152.105, herein.

(2) When the facility is to be located adjacent to either a residential district or existing residential uses, any boundaries adjoining such residential district or use shall contain a ten-foot B-type buffer consistent with the requirements of §§ 152.170 - 152.179, below.

(3) Any structures associated with the cultural arts building shall be set back from any adjoining residential use or district a minimum of 100 feet.

(J) *Golf driving ranges.*

(1) Lighting, if any, shall be designed and installed so that it is directed away from the roadway and adjacent residentially-zoned or used properties and does not interfere with the safe use of public rights-of-way.

(2) Adequate assurance shall be provided, by means of separation, fencing or other means, that the operation of such facility shall not constitute a danger to person or property.

(3) Total signage on the property shall not exceed 32 square feet. One freestanding sign may be installed provided it does not exceed eight feet in height. Signs shall not be illuminated except internally or by means of one light bulb per sign face not exceeding 150 watts.

(K) *Home occupation.*

(1) No person other than members of the family residing on the premises shall be engaged in such occupation.

(2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the floor area of the principal structure or 1,000 square feet, whichever is smaller, shall be used in the conduct of the home occupation.

(3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding six square feet in area, non-illuminated, and mounted flat against the wall of the principal building.

(4) No outside storage of materials or equipment shall be allowed in connection with the home occupation.

(5) There shall be no sales on the premises in connection with such home occupation.

(6) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard or side yard.

(7) Only vehicles used primarily as passenger vehicles (passenger automobiles, passenger vans and passenger pick-up trucks) shall be permitted in connection with the home occupation.

(8) Home occupations may be in operation only between the hours of 7:00 a.m. and 9:00 p.m.

(L) *Mini-warehouses.*

(1) One-way interior travel lanes shall have a minimum width of 15 feet in addition to a ten-foot wide parking lane. All two-way interior travel lanes serving storage units shall have two 12-foot wide travel lanes and be provided with a ten-foot wide parking lane. All portions of the site shall be readily accessible by police and fire equipment and personnel.

(2) Storage units shall be designed for individual storage. They shall contain no facilities for utility service. They shall not be used for sales or service or for habitation by humans or animals.

(3) No outside storage shall be permitted when the proposed use is situated in a zoning district classification other than I-1.

(M) *Private clubs.*

(1) No private club shall be located within a 500-foot radius of another private club nor within 250 feet of a residential use or residential zoning classification.

(2) The parking lot for such facility shall be adequately lighted to provide security for its patrons and to otherwise comply with §§ 152.090 - 152.105, herein.

(N) *Public utility facilities.*

(1) Lots shall conform to minimum setback and yard requirements of the district in which they are located. Unstaffed utility structures with internal floor space of less than 300 square feet are exempted from the minimum lot size requirement.

(2) Electric and gas substations and sewage treatment plants shall be separated by a ten-foot B-type buffer meeting the specifications of §§ 152.170 - 152.179 from the street and any abutting residential use or any property located in a residential zoning district.

(3) Control houses, pump and lift stations, and other similar uses shall be screened from the street and any abutting residential use or any property located in a residential zoning district.

(4) A fence not easily climbable or comparable safety devices must be installed and maintained in order to deter access to the facility.

(5) The design of buildings, structures and facilities on a site should conform as closely as possible to the character of the area or neighborhood.

(6) The facility's lighting shall be shielded to prevent light and glare spill-over on to any adjacent residential properties, if such exist.

(7) The Board of Adjustment may give relief from these requirements so long as public safety and neighborhood compatibility are protected, if strict adherence would constitute a hardship or is unnecessary.

(O) *Restaurants.*

(1) The use must be located on, and have primary access from, a major or minor thoroughfare.

(2) All outside storage areas including dumpsters must be:

(a) Sited to the rear of the building;

(b) Comply with the setback requirements for the zoning district classification within which it is located; and

(c) Screened from view from both adjacent residential properties and public rights-of-way through installation of screening meeting the specifications of §§ 152.170 - 152.179.

(3) The use shall be limited to no more than 40 seats in an NMU zoning district and 60 seats in an MICR zoning district.

(4) Permissible hours of operation shall be limited to the hours between 7:00 a.m. and 11:00 p.m.

(5) No restaurant shall provide drive-in or drive-through service.

(P) *Schools, elementary and secondary.*

(1) The following standards shall be used to govern the establishment or development of new public and private schools:

(a) No structure or parking shall be placed within 50 feet of a property line in the following zoning classifications: R-1, R-2, NMU, MICR;

(b) Off-street parking meeting the requirements of §§ 152.090 - 152.105 shall be provided;

(c) The use will be on a lot which may be accessed by means of a collector, minor thoroughfare or major thoroughfare for elementary schools and junior high schools, and by means of a minor thoroughfare or major thoroughfare for senior high schools; provided, however, the Board of Aldermen may waive this requirement to accommodate a public need so long as traffic shall not be increased on residential streets to an unacceptable level.

(2) The foregoing standards shall serve as guidelines for the expansion or redevelopment of existing schools; however, the Board of Aldermen may waive any such guidelines when their application would constitute a hardship.

(Q) *Shelter facilities.*

(1) A shelter facility shall not be permitted to locate within 1,500 feet of another shelter facility.

(2) The parcel on which a shelter facility is situated shall not be adjacent to a residential use. For purposes of this subsection, properties situated across a street right-of-way from a proposed shelter facility shall be deemed to be adjacent.

(3) The parcel on which a shelter facility is situated shall not be situated within 200 feet of a residential zoning district.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

ADMINISTRATION AND ENFORCEMENT

§ 152.130 LAND USE ADMINISTRATOR.

A Land Use Administrator, designated by the Board of Aldermen, shall administer and enforce this chapter. If the Land Use Administrator shall find that any of the provisions of this chapter are being violated, he or she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order discontinuance of illegal buildings or structures or illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.
(Ord. passed 10-1-07)

§ 152.131 LAND DEVELOPMENT PERMIT REQUIRED.

No building or other structure shall be erected, moved, added to or structurally altered, nor shall a building permit be issued, without a land development permit issued by the Land Use Administrator. No land development permit shall be issued by the Land Use Administrator except in conformity with the provisions of this chapter, unless he or she receives a written order from the Board of Adjustment in the form of an administrative review or variance as provided by this chapter.
(Ord. passed 10-1-07)

§ 152.132 APPLICATION FOR LAND DEVELOPMENT PERMIT.

(A) All applications for a land development permit shall be accompanied by a fee according to a sliding scale currently in use by the town and plans in duplicate drawn to scale which indicate the following. An electronic copy for all submissions for commercial, industrial, and new subdivision developments shall also be provided in a format readable by the town's hardware and software resources. In the case of special use applications additional paper copies will be required for inclusion in the minutes of the meetings as may be required.

(1) The shape and dimensions of the lot on which the proposed building or use is to be erected or constructed.

(2) The location of the said lot with respect to adjacent rights-of-way.

(3) The shape, dimensions and location of all buildings, existing and proposed on the said lot.

(4) The nature of the proposed use of the buildings or land, including the extent and location of the use on the said lot.

(5) The location and dimensions of off-street parking and means of ingress and egress to such space.

(6) Any other information which the Land Use Administrator may deem necessary for consideration in enforcing the provisions of this chapter.

(B) One copy of the plans shall be returned to the applicant by the Land Use Administrator, after he or she shall have marked such copy either as approved or disapproved and attested to same by his or her signature on such copy. The original of the plans similarly marked shall be retained by the Land Use Administrator.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.133 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS AND CERTIFICATES OF ZONING COMPLIANCE.

Building permits or certificates or zoning compliance issued in the basis of plans and applications approved by the Land Use Administrator authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction differing with that authorized shall be deemed a violation of this chapter and punishable as provided by § 152.136 hereof.
(Ord. passed 10-1-07)

§ 152.134 REMEDIES.

If any building is erected, constructed, reconstructed, repaired, converted or maintained or any building, structure or land is used in violation of this chapter, the Land Use Administrator or other appropriate authority or any adjacent or other property owner who would be damaged by such violation, may institute injunction or other appropriate action in proceeding to stop the violation.
(Ord. passed 10-1-07)

§ 152.135 PROCEDURES UPON DISCOVERY OF VIOLATIONS.

If the Land Use Administrator finds that any provision of this chapter is being violated, he or she shall send a notice of violation by certified mail, return receipt requested, or by hand delivery to the owner of record of the real property. He or she may also deliver such notice to the occupant, tenant or user of the property subject to the violation. He or she shall indicate the nature of the violation and order the action necessary to correct it. Additional written notices may be sent at the Land Use Administrator's discretion.
(Ord. passed 10-1-07)

§ 152.136 PENALTIES FOR VIOLATIONS.

Any act constituting a violation of the provisions of this chapter or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or special use permits, shall subject the offender to a civil penalty in the amount of $500.

(A) Violators shall be issued a written notice which must be paid within ten days. Each day's continuing violation shall be a separate and distinct offense. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a notice of violation in accordance with § 152.135 and did not take an appeal to the Board of Adjustment within the prescribed time.

(B) Notwithstanding the foregoing, provisions of this chapter may be enforced through equitable remedies issued by a court of competent jurisdiction.

(C) In addition to or in lieu of remedies authorized herein, violations of this chapter or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special use permits, may be prosecuted as a misdemeanor, punishable as provided in G.S. § 14-4.
(Ord. passed 10-1-07)

NONCONFORMITIES

§ 152.150 PURPOSE.

The purpose of this section is to regulate and limit the continued existence of uses and structures lawfully established prior to the effective date of this chapter, or any amendment thereto, that do not conform to this chapter, as amended. Any nonconformity created by a change in the classification of property or the text of these regulations shall be regulated by the provisions of this subchapter. As used in this subchapter the term, "effective date of this chapter, or any amendment thereto," refers to the date of the chapter which first rendered a use, structure or land nonconforming.
(Ord. passed 10-1-07)

§ 152.151 NONCONFORMING USES.

A nonconforming use is a use of land, buildings, or structures that was lawfully established prior to the effective date of this chapter, or any amendment thereto, but which does not conform to the regulations for the zoning classification in which it is located. Nonconforming uses may be continued subject to the limitations noted herein.

(A) No nonconforming use shall be extended, expanded, enlarged, or moved to occupy a different or greater area of land, buildings or structures than was occupied by such use at the time it became nonconforming; provided, however, a nonconforming use may be extended throughout any parts of a building which were specifically designed and arranged for such use at the time it became nonconforming.

(B) No building or structure devoted to a nonconforming use shall be enlarged, extended, reconstructed, moved, or structurally altered unless such building or structure is thereafter devoted to a conforming use; provided, however, such building or structure may be enlarged or extended upon prior authorization from the Board of Adjustment, which authorization shall not be granted unless the Board of Adjustment makes each of the following findings of fact:

(1) The proposed enlargement or extension shall be de minimis in relation to the existing building or structure;

(2) The proposed enlargement or extension shall not increase the intensity of the nonconforming use, which is to say, it will not result in an increase in dwelling units for a residential use nor in gross floor area for a nonresidential use;

(3) The proposed enlargement or extension is designed so that it will not render the use of the property any less compatible than it is in its existing circumstances;

(4) The authorization of such proposed enlargement or extension is not otherwise contrary to the public health, safety or welfare.

(C) (1) A nonconforming use of a structure may not be changed to another nonconforming use unless such change is authorized by the Board of Adjustment. In order to authorize a change in nonconforming use, the Board of Adjustment shall consider the relative impacts of the existing nonconforming use and the proposed nonconforming use with regard to traffic, noise, pollution, visual

appearance and compatibility with the neighborhood, and shall make each of the following findings:

(a) The proposed use is expected to result in impacts which are less than those associated with the existing use;

(b) The proposed use will be more compatible with the surrounding neighborhood than is the existing use;

(c) Approval of the change in nonconforming use serves the public health, safety and general welfare;

(d) Failure to approve the change in nonconforming use would result in a hardship to the owner of the property on which the nonconforming use is situated.

(2) An existing nonconforming use shall be discontinued within 60 days of the date of approval of a change in nonconforming use. Subsequent to that time, such existing use shall become unlawful.

(D) Where a nonconforming use ceases for 180 consecutive days, then the use shall not be re-established or resumed, and any subsequent use of the land or structure shall conform to the requirements of this chapter. Vacancy and non-use of the building or structure, regardless of the intent of the owner, shall constitute discontinuance under this provision.

(E) Where a building or structure devoted to a nonconforming use is damaged to the extent of 50% or more of its current value, such building or structure, if restored, shall thereafter be devoted to conforming uses.
(Ord. passed 10-1-07)

§ 152.152 NONCONFORMING STRUCTURES.

A nonconforming structure is a building or other structure which lawfully existed prior to the effective date of this chapter, or an amendment thereto, and which no longer could be built under the terms of this chapter, as amended, by reason of restrictions on area, footprint, open space, building height, setbacks, lot width, or other requirements concerning the structure.

(A) A nonconforming structure devoted to a use permitted in the zoning classification in which it is located may continue to be used only in accordance with the provisions of this section.

(B) Normal repair and maintenance may be performed to allow the continuation of nonconforming structures.

(C) Except as provided in divisions (D) and (E), below, a nonconforming structure shall not undergo a change of use, renovation or expansion.

(D) A nonconforming structure may undergo a change of use or renovation without having to bring the structure into conformity with the requirements of these regulations, provided that:

(1) The change in use or renovation does not increase the floor area of the structure;

(2) The change in use is to a permitted use within the district; and

(3) The number of parking spaces provided for the use is in conformity with the requirements of these regulations.

(E) A nonconforming structure may be expanded, without bringing the nonconforming structure into conformity with these regulations, only if the part of the structure to be expanded and the area of the lot into which the expansion is taking place are both brought into conformity with the requirements of this chapter.

(F) A nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning classification in which it is located.

(G) Where a nonconforming structure is damaged by fire, flood, wind, or other act of God, and such damage does not exceed 50% of the current assessed taxable value of the structure, it may be restored to its original dimensions and conditions as long as a building permit for the restoration is issued within twelve months of the date of the damage.
(Ord. passed 10-1-07)

§ 152.153 NONCONFORMING VACANT LOTS.

A nonconforming vacant lot is a lot that was lawfully created prior to the effective date of this chapter, or any amendment thereto, but which does not conform to the minimum gross land area or minimum lot requirements for the zoning classification in which it is located.

(A) Except as provided herein, a nonconforming vacant lot may be used for any of the uses permitted by this chapter in the zoning classification in which it is located, provided that the use meets all limitations and minimum requirements

for setback and yards, height, open space, buffers, screening, parking, density and floor area required in this ordinance for the zoning classification in which the lot is located.

(B) If compliance of the structure(s) intended on the nonconforming lot with applicable setback requirements is not reasonably possible, the nonconforming lot may be used as a building site subject to the granting of a variance from such setback requirements by the Board of Adjustment in accordance with the provisions of §§ 152.070 - 152.078.

(C) With regard to residential dwellings, variances authorized pursuant to division (B), above, shall be limited to single-family dwellings. Two-family or multi-family residential dwellings shall not be entitled to such a variance.

(D) Where a nonconforming lot abuts another lot of record (whether conforming or nonconforming) held in the same ownership at or subsequent to enactment of this section, such lots shall be combined or recombined as necessary to form a conforming lot or lots and shall not thereafter be subdivided except in compliance with all of the requirements of this chapter. Where a nonconforming lot was created by public taking action or as a result of a court order, the above combination or recombination of lots shall not be required.
(Ord. passed 10-1-07)

§ 152.154 REPAIRS AND MAINTENANCE.

Minor repairs to and routine maintenance of land, buildings, structures, or other development of land devoted to a nonconforming use or having nonconforming structures are permitted, provided the cost of such repairs and maintenance within any 12-month period does not exceed 10% of the current assessed taxable value of the land, buildings, structure, or other development of land. Any structure or other development of land devoted to a nonconforming use that is declared unsafe by the Land Use Administrator because of lack of repairs and maintenance shall not be restored, repaired, reconstructed, or used except in conformity with the provisions of this section. Any structure or other development of land devoted to a nonconforming use that is declared unsafe by the Land Use Administrator, but not because of lack of repairs and maintenance, may be repaired and restored subject to the requirements of this section.
(Ord. passed 10-1-07)

AMENDMENTS

§ 152.160 INITIATION OF AMENDMENTS.

This Unified Development chapter, including the zoning map, may be amended only by the Board of Aldermen. Changes or amendments may be initiated by the Board of Aldermen, the Planning Board, the Board of Adjustment, town staff, or by one or more private citizens.
(Ord. passed 10-1-07)

§ 152.161 APPLICATION.

An application for any amendment shall contain a description and/or statement of the present and proposed zoning regulation or district boundary to be applied, the names and addresses of the owner or owners of the lot in question, the use of each adjacent property and such other information as may be requested by the Land Use Administrator. Such application shall be filed not less than 30 days prior to the Planning Board's meeting at which the application is to be considered. If an application is denied, no application for any change in the zoning regulations applicable to the same property or any part thereof shall be filed until the expiration of one year from the date of final determination by the Board of Aldermen. Provided, however, the one-year waiting period shall not be applicable to the rezoning of all or any part of property previously considered by the Board of Aldermen where the new application requests assignment of a different zoning district classification.
(Ord. passed 10-1-07)

§ 152.162 FEE.

A fee shall be paid to the Town of Franklin for each application for an amendment to cover the cost of advertising and other administrative expenses. The fee shall be determined by a resolution of the Board of Aldermen and may be amended at any time in like manner.
(Ord. passed 10-1-07)

§ 152.163 PROCESSING OF APPLICATION.

An application for amendment shall be processed in accordance with the provisions of this section.

(A) *Action by the Planning Board.* The Planning Board shall consider and make recommendations to the Board of Aldermen concerning each proposed

zoning amendment. The following policy guidelines shall be followed by the Planning Board concerning zoning amendments.

(1) The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.

(2) There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.

(3) There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change.

(4) There is convincing demonstration that the character of any neighborhood will not be materially and adversely affected by any use permitted in the proposed change.

(5) The proposed change is in accord with the principles of growth, sound planning principles, and any applicable small area plan.

(B) *Notice of public hearing.* No amendment shall be adopted by the Board of Aldermen until after a public notice and hearing. Notice of the date, time and place of the public hearing shall be published in a newspaper of general circulation once a week for two successive weeks, with the first notice to be published not less than ten nor more than 25 days prior to the date of the hearing.

(1) When a zoning map amendment is proposed, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail not less than ten nor more than 25 days prior to the date of the public hearing. The person or persons mailing such notices shall certify to the Board of Aldermen that fact, and such certificate shall be deemed conclusive in the absence of fraud.

(2) When a proposed zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, the town may elect to use the expanded published notice provided for in this section rather than the notice stipulated in division (B)(1), above. In this circumstance, the town may provide notice of the hearing by means of an advertisement not less than one-half newspaper page in size published in a newspaper of general circulation once a week for two successive weeks, with the first notice to be published not less than ten nor more than 25 days prior to the date of the hearing.

(3) When a zoning map amendment is proposed, the town shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. The notice shall be a minimum of 18 inches by 24 inches in size. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the town shall post sufficient notices to provide reasonable notice to interested persons.

(C) *Nature of proceedings.* It is the intent of this ordinance that applicants for rezoning to any district other than a special use district or a planned development district shall be prohibited from offering any testimony or evidence concerning the specific manner in which they intend to use or develop the property.

(D) *Protest petitions.* Petitions opposing a change in zoning classification shall comply with the requirements of this section.

(1) *Contents and timing of petition.* To qualify as a valid protest petition, it must comply with the following requirements:

(a) Be signed by the owners of 20 percent or more of either (1) the lots included in a proposed change, (2) the lots within 100 feet of either side or the rear of the tract to be rezoned, or (3) the lots directly opposite the tract to be rezoned and extending 100 feet from the street frontage of such opposite lots.

(b) Be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment.

(c) Be received by the town clerk in sufficient time to allow the town at lest two normal working days before the date established for a public hearing on the proposed amendment to determine the sufficiency and accuracy of the petition.

(d) Identify each property owner signing the petition by address and by parcel qualifying the property owner to protest.

Identification of qualifying parcel shall be by Macon County Land Records map and parcel identification number.

(2) A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment.

(E) *Effect.* In case of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of 3/4 of all members of the Board of Aldermen. These provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted special use or planned development district if the amendment does not accomplish any of the following:

(1) Change the types of uses that are permitted within the district;

(2) Increase the land area included within the district;

(3) Increase the approved density for a residential development;

(4) Increase the total approved floor area of nonresidential development; or

(5) Reduce the size of any buffers or screening approved for the district.
(Ord. passed 10-1-07)

§ 152.164 PROPERTY OWNER CONSENT UNDER CERTAIN CIRCUMSTANCES.

Amendments, modifications, supplements, repeal or other changes in zoning regulations and restrictions and zone boundaries shall not be applicable or enforceable without the consent of the owner with regard to lots for which building permits have been issued pursuant to G.S. § 160A-417 prior to the enactment of this chapter making the change or changes so long as the permits remain valid and unexpired pursuant to G.S. § 160A-418 and unrevoked pursuant to G.S. § 160A-422.
(Ord. passed 10-1-07)

BUFFERING, SCREENING AND LANDSCAPING

§ 152.170 PURPOSE AND INTENT.

The Town of Franklin has an abundant and diverse tree and vegetative cover that contributes to the aesthetic value of the town and provides numerous ecological and economic benefits. The landscaping, buffering, and screening standards set forth below require landscaping in certain circumstances and locations in order to achieve the following:

(A) Encourage the preservation of existing trees and vegetation and replenish removed vegetation;

(B) Improve the visual quality of the town and minimize potential negative impacts of development such as noise, dust, glare of lights, parking lots, traffic, heat, overcrowding, and odor;

(C) Provide environmental benefits such as climate modification, decreased energy consumption, reduced stormwater runoff, decreased erosion, improved water and air quality, and protection of wildlife habitat;

(D) Provide a transition between dissimilar land uses to protect abutting properties from potential negative impacts of neighboring development and preserve the character and value of a property and provide a sense of privacy;

(E) Improve standards for quantity, location, size, spacing, protection, and maintenance of plants and other screening materials to assure a high level of quality in the appearance of Franklin while allowing flexibility to promote well designed and creative landscape plantings;

(F) Require the maintenance of landscaping installed to meet the requirements of these standards to ensure that the landscaping continues to thrive and enhance the visual quality of the Town of Franklin.
(Ord. passed 10-1-07)

§ 152.171 LANDSCAPING, BUFFERING AND SCREENING REQUIRED.

Landscaping, buffering and screening shall be required for developments within the planning jurisdiction of the Town of Franklin, including its extraterritorial jurisdiction, as set forth herein.

(A) The following developments must bring the entire site into full compliance with the requirements of this subchapter:

(1) Any new public or private development with the exception of single or two-family homes.

(2) A change of use to a higher impact. For purposes of this section, the following list ranks differing uses from lowest to highest impact: residential, mobile home park, institutional and cultural, commercial, industrial.

(3) Renovations with a total cost exceeding 50% of the assessed value of the building according to Macon County tax records or an appraisal by a state licensed appraiser.

(4) Expansions exceeding 50% of the pre-expansion floor area or paved surface.

(5) Existing unpaved parking lots which are paved over.

(B) Expansions or additions that are less than 50% of the pre-expansion floor area and/or pavement surface must meet the landscaping requirements only in the area around the addition, which is parallel to any edge of the expansion area and extending to the property line or street pavement edge.
(Ord. passed 10-1-07)

§ 152.172 ALTERNATIVE COMPLIANCE.

The landscape requirements are intended to set minimum standards for quality development and environmental protection and are not intended to be arbitrary or inhibit creative solutions. Site conditions or other reasons may justify the need to request an alternate method of compliance with the landscape requirements. The reviewing authority, as specified in §§ 152.050 - 152.062, above, may alter the requirements of this section as long as existing or added landscape features of the development site comply with the intent of this subchapter. Requests for alternative compliance shall be accepted if one or more of the following conditions are met.

(A) Topography, geologic features, drainage channels or streams, existing natural vegetation, overhead or underground utilities, or other conditions make it unreasonable or meaningless to plant a buffer or meet other landscape requirements.

(B) Space limitations, unusually shaped lots, unique relationships to other properties, and/or prevailing practices in the surrounding neighborhood (such as use of a specific type of vegetation) may justify alternative compliance when changing the use type of an existing building in an established mature neighborhood or when developing in an historic district.

(C) An alternative compliance proposal is equal or better than normal compliance in its ability to fulfill the intent of this article and exhibits superior design quality.
(Ord. passed 10-1-07)

§ 152.173 EXISTING VEGETATION.

(A) This section seeks to provide incentives to developers to utilize existing vegetation on a development site in meeting the requirements of this subchapter.

(1) *Preservation of existing vegetation.* Preserving trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, mitigate the impacts of development on the community, and help minimize opposition to a proposed development. It is recommended that groups of trees be preserved, as well as individual trees. Existing preserved trees and shrubs may be credited towards required buffer trees, street trees, and parking lot trees, in accordance with division (A)(2), below.

(2) *Credits and other incentives to preserve vegetation.* Preserved trees may be credited at the following rate:

2 - 6 inch caliper tree = 1 tree
7 - 12 inch caliper tree = 2 trees
13 - 18 inch caliper tree = 3 trees
19 - 24 inch caliper tree = 4 trees
25+ inch caliper tree = 5 trees

(B) If the developer chooses to receive credit, preserved vegetation must be in good health and condition. Trees designated to be preserved must be indicated on the site plan and on landscape and grading plans. Protective barriers, if utilized in accordance with division (C), below, must also be shown on the landscape and grading plans. A preserved tree shall be replaced with the total number of trees which were credited to the existing tree if the preserved tree dies within one year of preservation.

(C) *Protection of existing trees during construction.* The regulations contained in this section shall apply in those circumstances when a developer has elected to protect trees during construction and, thus, after the passage of five years, be excused from the requirement to replace preserved trees.

(1) No grading or other land-disturbing activity can occur on a site with existing trees which are designated to be preserved in order to meet landscaping requirements until protective barriers are installed by the developer and approved by the Land Use Administrator or his or her designee. Trees designated for preservation which are counted toward the landscape requirements must be protected by barriers, while trees designated for preservation which do not count toward the landscape requirements are encouraged to be protected by barriers. The diameter of the preserved trees and the location of protective barriers must be shown on landscape and grading plans with the dimension between the tree trunk and barrier indicated.

(2) (a) Protective barriers shall be placed around the critical root zone of preserved trees that are within 50 feet of any grading or construction activity. The critical root zone is a circle extending around the tree with a one-foot radius for every one-inch of tree diameter. For example, a ten-inch diameter tree would have a barricade surrounding it, erected ten feet away from the trunk. All protective barriers must be maintained throughout the building construction process. Protective barriers shall consist of one or more of the following:

1. A fence which is at least three feet high and constructed in a post and rail configuration, using two-by-four posts and one-by-four rails; or

2. A fence with posts placed no farther than ten feet apart covered with four-foot orange polyethylene laminar safety fencing.

(b) The Land Use Administrator may authorize other protective barriers which meet or exceed the protection offered by the above.

(3) (a) All contractors must be made aware of the areas designated for protection. No disturbance can occur within the tree protection areas including the following:

1. Grading;

2. Filling, unless an aeration system, certified by a registered landscape architect, certified arborist, or North Carolina Agricultural Extension Specialist, is installed to protect the tree from suffocation;

3. Parking;

4. Storage of debris or materials, including topsoil;

5. Disposal of hazardous wastes or concrete washout; and

6. Attaching of nails, ropes, cables, signs, or fencing to any tree designated for preservation.

(b) If any area within the critical root zone will be disturbed for any reason, a registered landscape architect, certified arborist, or North Carolina Agricultural Extension Specialist must recommend measures to minimize any potential impact and certify that the activity will not damage the tree under normal circumstances.

(4) The developer should coordinate with utility providers early in the design process to resolve potential conflicts about the placement of utilities and landscape requirements. Utilities must either be placed outside of the tree protection area or, with Planning Department approval, tunneled at least two feet directly below the tree roots, to minimize root damage.

(5) If silt fencing is required to control sedimentation, the fencing must be placed along the uphill edge of a tree protection zone in order to prevent sediment from accumulating in the critical root zone area.

(D) *Trees in public rights-of-way.* Trees located in any municipal right-of-way cannot be pruned or removed without permission from the Public Works Department.
(Ord. passed 10-1-07)

§ 152.174 GENERAL STANDARDS.

The following general standards shall apply to all landscaping requirements in this subchapter.

(A) *Design.* Unless otherwise specified, the exact placement of required plants and structures shall be the decision of the developer. The type of plants used shall be limited to those on the approved "species list" which shall be published and revised from time to time by the Land Use Administrator. Required landscaping shall be designed in such a manner as to impart its aesthetic character when viewed from any area accessible to the public or from adjacent properties.

(B) *Plant material.* Plant materials used for installation shall conform to the standards established

by the American Association of Nurserymen in the "American Standard for Nursery Stock," for each type (i.e., canopy tree, shrub, etc.) with minimum size as appropriate for the minimum caliper size designated in the approved species list. Grass sod, when made a part of a buffer, must be healthy, clean, and reasonably free of weeds, noxious pests, or diseases.

(C) *Installation.* All landscaping/screening shall be installed in a sound, workmanlike manner and according to accepted good planting procedures with the quantity and quality of plant materials as described. All elements of landscaping shall be installed so as to meet all other applicable ordinances and code requirements.

(D) *Maintenance.* The owner, occupant, tenant, and the respective agent of each, if any, shall be jointly and severally responsible for the maintenance of all buffers and landscaping. Buffers and landscaping shall be maintained in a good condition to present a healthy, neat, and orderly appearance at least equal to the original installation and shall be kept free from refuse and debris. Dead vegetation and landscaping material shall be promptly replaced with healthy, living plantings. Evergreen hedges shall be trimmed annually or as needed to provide a full visual screen and, in any event, shall not be allowed to exceed eight feet in height without written approval of the Land Use Administrator.

(E) *Walls and fences.* Any walls used for screening or as part of a buffer shall be constructed in a durable fashion of brick, stone, or other masonry materials. When concrete block is utilized, it shall be finished with stucco on both sides. Wood posts and planks or metal or other materials specifically designed as fencing materials may be approved by the Land Use Administrator for use in a Type C Buffer. Other materials may also be considered through the alternative buffer and screening process described in § 152.172. No more than 10% of the surface of a fence or wall shall be left open, and the finished side of the fence or wall shall face the abutting property. A chain link fence may not be used to satisfy the requirements of this subchapter.

(F) *Overhead utilities.* Landscaping plans, including plant spacing and species selection shall be such that landscaping required under this subchapter does not conflict with overhead utilities.

(G) *Species diversity.* When the total number of trees required under the provisions of this subchapter equals 20 or more, then no single tree species shall comprise more than 25% of the trees planted on the development site.
(Ord. passed 10-1-07)

§ 152.175 BUFFERYARDS AND BUFFERS.

Certain land uses may create an adverse impact when developed adjacent to other less intensive land uses. A bufferyard is a permanent unit of land together with plantings and structure(s), if any, which is designed to ameliorate such adverse impacts. Bufferyards, as required in this section, shall be depicted on any site plans reviewed under this ordinance and shall be depicted and described on drawings submitted for the purpose of development plan review. Unless deferred pursuant to a letter of compliance issued under § 152.177, below, buffers shall be emplaced and approved prior to issuance of any certificate of occupancy for the development.

(A) *Location of buffers.* Buffers shall be located on lot or parcel boundary lines. Buffers shall not be located on any portion of an existing public or private street or right-of-way, whether opened or unopened.

(B) *Determination of buffer requirements.* To determine a buffer required between two adjacent parcels or between a parcel and a street, the following procedure shall be followed:

(1) Identify the proposed land use.

(2) Identify the use or, if vacant, the zoning district classification, of land adjacent to the proposed use.

(3) Determine the buffer required on each boundary (or segment thereof) of the subject parcel by referring to the following Table of Buffer Requirements. This specifies the buffer required between proposed land uses and existing adjacent land uses or zoning districts.

TABLE OF BUFFER REQUIREMENTS

Proposed Land Use		***Existing Land Use/Zoning Classification***		
	Residential	Institutional and Cultural	Commercial	Industrial
Residential	x	x	x	x
Institutional & Cultural	10-foot B	x	x	x
Commercial	10-foot B	8-foot A	x	x
Industrial	25-foot C	15-foot B	15-foot B	x

Notes for table of buffer requirements: Indicated buffering is required if adjacent parcel of land is used or zoned for the category noted regardless whether adjacent parcel is located in the town, the town's extraterritorial jurisdiction (ETJ), or the planning jurisdiction of another governmental entity. Existing adjacent land use takes precedence over zoning district. Buffer requirement for the district will be used if adjacent land is vacant.

Institutional and cultural category includes religious, recreational, child care and educational uses and the MICR zoning classification.

(C) *Buffer specifications.* The following schedule sets forth the specifications of each of the buffers included in the Table of Buffer Requirements. Unless noted differently, the column entitled planting requirements refers to number of individual plants required per 100 linear feet of the buffer. The column entitled size requirements refers to the minimum size of individual plants at the time of planting. Unless otherwise noted, dimensions refer to height.

Type of Buffer	***Planting Requirement/100 Linear Feet***	***Size Requirements***
A	3 Broadleaf canopy trees 20 Evergreen shrubs (4-foot centers) 25 Flowering shrubs	5 - 6 feet 18 - 24 inches 12 - 18 inches
B	4 Broadleaf canopy trees 25 Evergreen shrubs (4-foot centers) 33 Flowering shrubs	1 1/2 - 1 3/4 inch caliper 18 - 24 inches 18 - 24 inches
C	4 Broadleaf canopy trees 10 Understory trees 33 Flowering shrubs Berm Fence or wall on top of berm	1 3/4 - 2 inch caliper 5 - 6 feet 18 - 24 inches 6 feet 8 feet
X	No buffer required	Not applicable

For type A and B buffers, the developer may, at his or her option, substitute a masonry wall for the evergreen shrubs. A wooden fence may be incorporated into a buffer but shall not be allowed to substitute for evergreen shrubs.

(D) *Use of buffer.* If approved by the Land Use Administrator, a buffer may be used for passive recreation; however, no plant material may be removed and such use shall not be a nuisance.

(E) *Buffers part of required yards.* Where front, side and rear yards are required by this chapter, buffers may be established within such required yards.

(F) *Buffer requirements when a street separates incompatible uses.* If a street with right-of-way of more than 30 feet lies between two land uses which would require a bufferyard between them, a buffer shall be required along the affected side or rear property lines of the developing use. No bufferyard is required along the front property line.

(G) *Bufferyards in the central commercial district.* In order to preserve and promote existing development patterns within the C-1 Central Commercial District, the bufferyard requirements of this subchapter shall not apply therein.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.176 SCREENING.

(A) These screening requirements shall apply to any development or use other than single-family or two-family residences. A buffer as specified in this subchapter may be used to meet the requirements of this section. Where practicable, the following uses must be screened from abutting property and from public view from a public right-of-way or a parking lot:

(1) Dumpsters or trash handling areas;

(2) Utility structures associated with a building;

(3) Loading docks or spaces;

(4) Outdoor storage of materials, stock and equipment, which shall not include the display of goods for sale; and

(5) Any other uses for which screening is required under this chapter.

(B) As far as practicable, any screening used to comply with the provisions of this section shall consist of a planting area which is at least five feet wide. This area may contain any type screening materials sufficient to separate visually the land uses, provided such materials meet the requirements of this subchapter. If only a wall or fence is used, then the area devoted to the screen need only be wide enough to accommodate the wall or fence and allow for its maintenance. Where practicable, screening shall be designed and maintained in such a manner as to conceal the use from view from the street, from vehicular use areas, and from adjoining properties. (Ord. passed 10-1-07)

§ 152.177 LETTER OF COMPLIANCE.

It is recognized that land development occurs continuously and that vegetation used in buffers should be planted at certain times of the year to ensure the best chance of survival. In order to ensure compliance with this subchapter and to reduce the potential expense of replacing buffering, landscaping, or screening materials which were installed in an untimely or improper fashion, a letter of compliance must be filed with the Land Use Administrator at the time of development plan review. A letter of compliance will allow the issuance of a conditional certificate of occupancy. This letter will acknowledge that the applicant for a certificate of development plan is aware of any buffer, landscaping or screening requirements which may apply to his or her property and that he or she will comply with those requirements by a specific date, generally to be within the next planting season, but in no case more than one year after the completion of construction of that portion of the project or building for which the certificate was issued. In no event shall a final certificate of occupancy be issued prior to emplacement and approval of the required buffer, landscaping, or screening. Failure to comply with the provisions of this section within the time noted in the letter of compliance will be a violation of this chapter. (Ord. passed 10-1-07)

§ 152.178 LANDSCAPING FOR VEHICULAR USE AREAS.

Trees and shrubs are required in and around vehicular use areas with more than six spaces to provide attractive views from roads and adjacent properties, provide shade to reduce the heat generated by impervious surfaces, reduce glare from vehicular use areas, and to help filter exhaust from vehicles.

(A) *Perimeter and interior plantings.* Vehicular use areas must be planted with at least one tree and two shrubs for every 4,000 square feet of vehicular use area, which includes parking spaces, aisles, driveways, and loading areas. Trees shall be spaced so that no parking space is more than 63 feet from a tree. At least 75% of the required parking lot trees must be broadleaf canopy trees. Trees and shrubs must be planted within 20 feet of the vehicular use area to count as parking lot landscaping; provided, however, all street trees required by other provisions of this chapter shall count as parking lot landscaping.

(1) When a development contains 20 or more parking spaces, 50% of the trees and shrubs must be planted in islands or medians located within the parking lot. Tree islands shall be evenly distributed throughout the parking lot in order to provide an even tree canopy throughout the lot. At a minimum, such tree islands shall consist of an area at least equal in size to two parking places side-by-side (360 square feet). Parking bays shall be broken up with landscaped islands or medians to avoid long monotonous rows of parking. Planting trees in groups is encouraged to increase the total amount of planting area for roots to grow.

(2) At the time of planting, trees and shrubs required in this section shall meet the following minimum size requirements:

(a) Broadleaf canopy trees: one and one-half to two-inch caliper;

(b) All other trees: five to six feet in height;

(c) All shrubs: height or spread of 18 to 24 inches.

(B) Planting strips. When a vehicular use area lot is located within 100 feet of an abutting property and no bufferyard is required, a planting strip which is a minimum of five feet wide shall be planted between the vehicular use area and the abutting property, except along approved driveway openings which run perpendicular to the planting strip. One large evergreen or deciduous tree and five evergreen or deciduous shrubs shall be planted for every 40 linear feet of property line that parallels the vehicular use area. Fifty percent of these trees and shrubs may be counted toward the parking lot trees and shrubs required in division (A) if the planting strip is located within 20 feet of the vehicular use area. Adjacent businesses on separate lots which share parking or driveways shall be exempt from this requirement provided that the required planting strip would interfere with the reasonable use of the shared parking or driveway. Vehicular use areas located behind buildings and screened from view from public rights-of-way shall be exempt from this requirement.

(C) *Buffering from street.* Vehicular use areas greater than 4,000 square feet any portion of which is located within 50 feet of the right-of-way of a street must be buffered from the street. The buffer shall be at least three feet high at maturity and can consist of plant material alone, or berms, fences, walls, or grade changed combined with plant material. A vegetative buffer shall consist of at least one evergreen or deciduous shrub planted for every five linear feet of buffer required. If a fence or wall is used, it must be constructed of wood, brick, stone or other masonry and be architecturally compatible with the proposed structure. Seventy-five percent of the fence or wall must be opaque with any spaces evenly distributed. The finished side of the fence or wall shall face the street. At least one shrub shall be planted on the street side for each eight linear feet of fence or wall. Berms and grade changes must be completely covered with vegetation. All shrubs planted can count toward the parking lot landscaping requirements.

(D) *Structured parking facilities.* Structured parking facilities, or parking decks, shall be excused from the parking lot landscaping requirements contained in this section but shall comply with the provisions of this paragraph. In the event that any openings for ventilation, service, or emergency access are located at the first floor level in the building facade, then they shall be an integral part of the overall building design. These openings as well as pedestrian and vehicular entrances shall be designed to minimize visibility of parked cars. The remainder of street level frontage shall be either commercial space or an architecturally articulated facade designed to minimize the visibility of parked cars. All levels of a structured parking facility shall be designed and screened in such a way as to minimize visibility of parked cars. In no instance will rails or cabling alone be sufficient to meet this screening requirement. The design elements of this paragraph shall only apply to building facades which are visible from a public right-of-way.

(E) *Automobile sales facilities.* Automobile sales facilities, due to the fact that inventory is typically stored and displayed for sale on vehicular use areas, require separate analysis with regard to the parking lot landscaping requirements in this section. Automobile sales facilities are, accordingly, exempted from the need to comply with interior parking lot landscaping requirements for that portion of an automobile sales facility utilized exclusively for the display of goods for sale. Automobile sales facilities are required to comply with the perimeter and planting strip requirements of this section; provided, however, such facilities shall be permitted one display area, which shall not be required to be screened, for each 100 feet of roadway frontage. Each display area shall extend no more than 50 feet in length.

(F) *Effect on other regulations.* Areas devoted to meeting the landscaping requirements of this section may count toward the common open space requirements contained in §§ 152.090 - 152.105, hereof. Where site characteristics and development considerations make it prudent and feasible, landscaping proposed to meet the requirements of this section may also contribute toward meeting the buffering and screening requirements contained in this subchapter.

(G) *Small lots.* Small lots, defined as lots with less than 75 feet of frontage on a roadway or with less than 75 feet of depth, may have site constraints which make strict compliance with the regulations contained in this section a hardship. In such cases, the approving authority for the town may approve deviations from such regulations so long as the plans of development are consistent with the goals and objectives stated herein.
(Ord. passed 10-1-07)

§ 152.179 BUFFER REQUIREMENTS WHEN A STREET SEPARATES INCOMPATIBLE USES.

If a street with right-of-way of less than 30 feet lies between two land uses which would require a bufferyard between them, a buffer shall be required along the affected side or rear property lines of the developing use. No bufferyard is required along the front property line.
(Ord. passed 10-1-07)

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

§ 152.190 STATUTORY AUTHORITY AND LEGISLATIVE FINDINGS OF FACT.

The General Assembly of the State of North Carolina has delegated to local governmental the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Pursuant thereto, the Board of Aldermen of the Town of Franklin, North Carolina, makes the following legislative findings of fact.

(A) The flood prone areas within the Town of Franklin and its extraterritorial jurisdiction are subject to periodic inundation which results in loss of life, property, health hazards, safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) The development activities listed herein contribute, individually and cumulatively, to the flood losses addressed above: (1) obstructions in flood plains causing increases in flood heights and velocities; (2) the occupancy in flood prone areas of uses vulnerable to floods or other hazards; (3) the loss of wetlands, streamside riparian areas, and other lands that slow, absorb, retain, and cleanse storm and flood waters; and (4) the expansion of impervious surfaces both within and outside of flood prone areas that cause increases in the velocity and rate of the discharge of storm water into bodies of water.

(C) The discharge of urban pollutants and sedimentation into bodies of water results in health and safety hazards and the impairment of environmentally and economically significant aquatic wildlife habitat, adversely affecting the public health, safety, and general welfare.

(D) Development activities cause sedimentation pollution through untreated and uncontrolled storm water from impervious areas, improper land disturbance, and the loss of wetlands, streamside riparian areas, and other lands that absorb and cleanse storm and floodwaters.

(E) The steeply sloping areas within the Town of Franklin and its extraterritorial jurisdiction are particularly susceptible to erosion and landslides, and pose particular difficulties in the construction and maintenance of public infrastructure and the provision of public services. Development activities in such areas are likely to result in the loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
(Ord. passed 10-1-07)

§ 152.191 STATEMENT OF PURPOSE.

It is the purpose of this subchapter to protect and promote the public health, safety, and general welfare by preventing the loss of life and/or public and private economic loss due to landslides, floods, erosion, and sedimentation pollution. It is further the purpose of this subchapter to protect our existing environmental resources, including steep slopes, flood plains, stream corridors, wetlands, watershed and groundwater recharge areas, soils, forest stands, specimen trees, and other significant vegetation and wildlife, which are of economic value to the town and its citizens and make Franklin a desirable place to live and visit. In furtherance of this purpose, the regulations contained herein are designed to accomplish the following:

(A) Restrict or prohibit uses that are or may be dangerous to health, safety, and property or that may result in damaging increases in erosion, flood heights, or velocities;

(B) Require that uses and infrastructure vulnerable to the movement of earth or flooding be protected against such damage at the time of initial construction;

(C) Control the alteration of steep slopes, natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of floodgates;

(D) Control filling, grading, dredging, and all other development that may increase erosion or flood damage;

(E) Require that storm waters that may damage property, increase flood hazards, or pollute surface waters be adequately controlled and treated.
(Ord. passed 10-1-07)

§ 152.192 OBJECTIVES.

The objectives of this subchatper are as follows:

(A) To protect human life and health;

(B) To minimize the expenditure of public money for costly storm water or flood control and stormwater management projects;

(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) To minimize prolonged business losses and interruptions;

(E) To minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable, and sewer lines, streets, and bridges) that are located on steep slopes or in flood prone areas;

(F) To help maintain a stable tax base by providing for the sound use and development of steep slope areas, flood prone areas, and the control of storm water runoff;

(G) To minimize the impairment of, or damage to, sensitive natural areas and bodies of water; and

(H) To ensure that potential buyers are aware that property is in a special flood hazard area or area of known landslide potential.
(Ord. passed 10-1-07)

§ 152.193 STEEP SLOPE AREA REQUIREMENTS (RESERVED).

(Ord. passed 10-1-07)

§ 152.194 SEDIMENTATION AND EROSION PREVENTION.

In order to prevent soil erosion and sedimentation pollution of streams, springs, flat water bodies, drainage networks, or other surface waters, the property owner shall at all times comply with all requirements of Chapter 153: Soil Erosion and Sedimentation Control Ordinance of Macon County.
(Ord. passed 10-1-07)

§ 152.195 STORMWATER RUNOFF PROVISIONS.

The purpose of this section is to (1) protect life and property and minimize nuisances by limiting destructive runoff and flooding generated by impervious surface areas and (2) to protect water quality and natural ecosystems by filtering sediments and pollutants such as nitrogen, phosphorus, trace metals, and hydrocarbons.

(A) *Affected property.* The requirements of this Section shall apply to the following activities:

(1) Any new non-residential or mixed-use development, or any existing non-residential or mixed-use development undergoing significant improvement, or any existing nonresidential or mixed-use development undergoing an expansion of impervious surface area of 25% or more.

(2) Any new residential development or subdivision of four or more dwelling units, any existing multi-family residential structure of four or more dwelling units undergoing significant improvement, and any expansion of or additions to an existing residential structure or development that would result in four or more dwelling units within the same parcel of land or structure or grouping of joined structures.

(3) All new major subdivisions and any new phase or expansion of existing major subdivisions.

(4) All new non-residential or mixed-use minor subdivisions and any new phase or expansion of an existing non-residential or mixed-use minor subdivision.

(5) Any new development project permitted by means of a special use permit.

(6) New structures; significant improvements to existing non-residential or mixed use structures; significant improvements to existing residential structures containing four or more dwelling units; and any expansion of impervious surface area of 25% or more within any development except expansions to residential structures containing fewer than four dwelling units, unless otherwise subject to these requirements.

(7) Any project for which stormwater management is required as a condition of approval by the Land Use Administrator or the Board of Aldermen.

(B) *Exempt activities.* The following activities are exempt from the stormwater management provisions of this section:

(1) Bona fide agricultural structures used exclusively for agricultural purposes; and

(2) Except as provided elsewhere in this chapter, the placement of small accessory buildings or structures or small amounts of other built-upon area; provided, however, that the total additional built-upon area shall be no greater than 400 square feet and the additional built-upon area shall not be placed within a special flood hazard area or surface water protection area.

(C) *Stormwater management requirements.* Development activities tend to increase the volume of stormwater runoff due to the elimination of pervious surfaces through paving and the construction of buildings and other structures. Stormwater runoff impacts the public health, safety, and welfare by flooding private and public property, by discharging pollutants, such as oils and greases, into receiving water bodies, and by making public streets and roads unsafe. Therefore, applicants for development authorization shall not be entitled to a land development permit until the applicant has demonstrated compliance with this section.

(1) The developer of all affected property shall be required to install a stormwater management system designed to control the peak runoff from a ten-year, 24-hour storm in accordance with the standards contained herein.

(a) The post-development rate of runoff shall not exceed the pre-development rate of runoff.

(b) The system shall be designed to remove 85% of the Total Suspended Solids (TSS) from the first inch of rainfall of any rain event.

(c) Stormwater measures shall have a drawdown of at least 48 hours, but not more than 120 hours.

(2) Stormwater measures shall be designed by an appropriately qualified engineer, landscape architect or other appropriately qualified professional, and shall be constructed and maintained in accordance with commonly accepted best practices. Innovative designs that utilize "low impact" and non-structural control and treatment measures are encouraged.

(3) Stormwater measures may be located off-site provided such measures are located within a parcel of land under the same ownership as the affected property or within a common area under the management of a property owners' association or similar entity. When stormwater measures are located off-site, deeds of both the affected property and the property containing the stormwater measure shall be provided and shall clearly reference an access easement and the right and responsibility of the owner of the affected property to access and maintain such measure.

(4) In all instances stormwater measures shall be designed to compliment a development and surrounding community and to minimize any threat to public health. If ponds or lakes are used, such areas shall be landscaped as amenities or hidden from view. This provision applies regardless whether the pond or lake typically contains water or may be dry for periods of time.

(D) *Permit requirements.* The Land Use Administrator shall review all stormwater plans required by this chapter to ensure compliance therewith. In making this determination, the Land Use Administrator shall use the Stormwater Best Management Practices Design Manual published by the North Carolina Department of Environment and Natural Resources or other commonly accepted information and engineering data.

(1) *Stormwater management system concept plan.* When required as part of any project, a written or graphic concept plan of the proposed post-development storm water management system shall be submitted along with other application materials and shall include the following: preliminary selection and location of proposed structural stormwater controls; low impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.

(2) *As-built plans and final approval.* Upon completion of a project, and before final development approval or a certificate of occupancy may be granted, the applicant shall certify that the completed project has been built in accordance with the approved stormwater management plans and

designs. The applicant shall submit actual "as built" plans for all stormwater management facilities or practices after final construction is completed.

(a) The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the storm water management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this chapter.

(b) A final inspection and approval by the Land Use Administrator is necessary prior to the issuance of any certificate of occupancy, release of improvement guarantee, or other final approval.

(E) *Inspections.* The Land Use Administrator may, from time to time, inspect approved storm water measures for compliance with this section and approved plans. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in storm water measures; and evaluating the condition of storm water measures. No person shall obstruct, hamper, or interfere with the Land Use Administrator while carrying out his or her official duties. If the owner or occupant of any affected property refuses to allow such inspection, the Land Use Administrator shall proceed to obtain an administrative search warrant pursuant to G.S. § 15-27.2 or its successor.

(F) *Maintenance of stormwater measures.* The owner of any stormwater measure installed pursuant to this section shall maintain and operate such measure to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the storm water measure was designed. Furthermore, stormwater measures installed prior to the enactment of this chapter as a requirement of the issuance of any permit shall be subject to the maintenance requirements contained herein. The owner of each stormwater measure, whether structural or non-structural in design, shall maintain it so as not to create or permit a nuisance condition.

(G) *Illicit discharges.* Except as provided herein, no person shall cause or allow the discharge, emission, disposal, pouring, or pumping, whether directly or indirectly, of any liquid, solid, gas, or other substance, other than stormwater, into any surface water, ground water, or stormwater conveyance. This prohibition applies to any substance deposited upon the land in manner and amount that the substance is likely to reach a stormwater conveyance, surface or ground water.

(1) The following discharges shall not be deemed illicit and shall be permitted under the terms stated:

(a) Water line flushing, except any anti-freezing agent;

(b) Landscape irrigation;

(c) Diverted stream flows;

(d) Rising ground waters;

(e) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20);

(f) Uncontaminated pumped ground water;

(g) Discharges from potable water sources;

(h) Foundation drains;

(i) Air conditioning condensation;

(j) Irrigation water;

(k) Springs;

(l) Water from crawl space pumps;

(m) Footing drains;

(n) Lawn watering;

(o) Individual residential car washing;

(p) Flows from riparian habitats and wetlands;

(q) Dechlorinated swimming pool discharges;

(r) Street wash water; and

(s) Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of North Carolina.

(2) Prohibited discharges include but are not limited to the following:

(a) Discharges of oil, anti-freeze, chemicals, paints, garbage, litter;

(b) Raw sewage discharges or overflows;

(c) Discharges of wash water resulting from the hosing or cleaning of gasoline stations, auto repair garages, or other types of automotive service facilities;

(d) Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility (including motor vehicles, cement-related construction equipment, port-a-potty servicing, etc.);

(e) Discharges of wash water from mobile operations such as steam cleaning, power washing, pressure washing, carpet cleaning, and mobile carwash facilities; discharges of wash water from the cleaning or hosing of impervious surfaces in industrial and commercial areas including parking lots, streets, sidewalks, driveways, patios, plazas, work yards, and outdoor eating or drinking areas;

(f) Discharges of runoff from material storage areas containing chemicals, fuels, grease, oil or hazardous materials or chemicals;

(g) Discharges of pool or fountain water containing chlorine, biocides or other chemicals, and discharges of pool or fountain filter backwash water;

(h) Discharges of water containing sediment or construction-related wastes; and

(i) Discharges of food-related wastes such as grease, oil, fish processing water, kitchen mat wash water, trash bin wash water, pouring liquids into dumpsters.

(H) *Illicit connections.* Other than those exceptions listed in division (B), above, it shall be unlawful to cause or permit any connection to a surface water or stormwater conveyance or stormwater conveyance system that allows the discharge of anything other than stormwater.

(1) Prohibited connections include, but are not limited to the following: floor drains, wastewater from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and wastewater from septic systems.

(2) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one year following the effective date of this chapter. Provided, however, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

(3) Upon determining that an illicit connection may result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat or that a connection was made in violation of any applicable regulation or ordinance, other than this section the Land Use Administrator shall designate the time limit within which the connection shall be removed. In setting the time limit for compliance, the Land Use Administrator shall take these matters into consideration:

(a) The quantity and complexity of the work;

(b) The consequences of delay;

(c) The potential harm to the environment, to the public health, and to public and private property; and

(d) The cost of remedying the damage.

(I) *Fee-in-lieu of stormwater compliance.* On-site compliance with the requirements of this section may be impractical or impossible in certain watersheds of the town. The owner and/or developer of affected properties may, pursuant to the provisions set forth herein, opt to pay a fee-in-lieu of compliance with the stormwater management requirements of this section.

(1) Payment may be made in the form of contribution of funds, contribution of land, contribution of engineered stormwater control construction work, or a combination of these, the total value of which shall be in accordance with the stormwater fee-in-lieu schedule which shall be established by the Land Use Administrator and periodically revised to account for changes in construction and maintenance costs.

(2) Fees shall be based upon actual cost of construction of a structural storm water measure to control and treat storm water runoff from the total impervious surface area of the affected property.

(3) The Board of Aldermen shall adopt a map of watersheds within which a fee-in-lieu of stormwater compliance may be permitted.

(4) Fee-in-lieu contributions shall be set aside in a dedicated, watershed-specific special fund, and applied to stormwater management and other water quality improvement projects within the same watershed as the affected property. Purposes eligible for fee-in-lieu contributions include the following:

(a) The acquisition, design, or construction of storm water control and treatment measures.

(b) Stream bank, wetland, or other surface water protection and restoration projects that enhance stormwater management goals, reduce erosion, and enhance water quality.

(c) The elimination of illicit or inappropriate connections to storm water conveyances.

(d) Other activities identified by the Land Use Administrator, provided that such activities are for the sole purpose of improving water quality.

(e) Matching funds for grants to fund any of the aforementioned types of activities.

(f) Matching funds for participation in any water quality improvement program funded by the Macon County Soil and Water Conservation Service, the North Carolina Department of Environment and Natural Resources, the USDA Natural Resources Conservation Service, or other local, regional, state or federal agencies.

(5) The expenditure of stormwater contributions is limited as follows:

(a) To the extent practical, contributions shall be applied to activities that will result in water quality benefits comparable to the benefits of controlling and treating stormwater on the contributing property.

(b) Contributions shall not be applied to the storm water management requirements of other affected properties, or to the same affected property to satisfy the stormwater management requirements of future site plan approvals.

(c) Contributions shall not be applied to any other purpose or activity of the town not directly related to stormwater management and water quality improvement.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.196 SURFACE WATER PROTECTION REQUIREMENTS.

The purpose of this section is to provide a network of protected stream corridors thereby helping to maintain water quality, provide wildlife habitats, filter pollutants, store floodgates, and contribute to the "green infrastructure" of the Town of Franklin and lands within its jurisdiction. Stream systems are comprised of each stream and its respective drainage basin. Streams have the primary natural functions of conveying storm, ground, and surface waters, storing floodwaters, and supporting aquatic life. Vegetated lands adjacent to the stream channel serve to protect the stream's ability to fulfill its natural functions. Surface water protection areas have the primary natural functions of protecting water quality by (1) filtering sediments and pollutants such as nitrogen, phosphorus, trace metals, and hydrocarbons, (2) providing intermittent storage for flood waters, (3) allowing channels to meander naturally, and (4) providing suitable habitat for wildlife.

(A) *Applicability.* This section shall apply to all surface waters (as defined by this chapter), and all nonencroachment areas and regulatory floodways (as delineated upon the most recently published Flood Boundary and Floodway Map (FBFM) and/or Flood Insurance Rate Map (FIRM), within the planning jurisdiction of the Town of Franklin.

(B) *Relationship to previously approved development plans, structures, and uses.* Uses and structures approved and constructed in a protection area prior to the enactment of this chapter may remain as nonconformities, subject to any legal requirements attributed to that status. All development plans, development projects, and uses permitted subsequent to the enactment of this chapter, including expansions to previously approved and constructed uses and structures, shall comply with the surface water protection requirements of this chapter.

(C) *Surface water protection area delineation.* Surface water protection area requirements apply to the regulatory floodway and non-encroachment

areas, as well as lands within 30 feet from the top of each bank of a stream or other surface water body.

(1) For streams and other surface waters with defined channels, protection area widths are measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the channel.

(2) "Top of bank" shall be determined by the Land Use Administrator by considering factors such as the break in slope for a watercourse and the presence of streamside vegetation.

(3) For wetlands, as defined in this chapter, protection area widths are measured horizontally, landward from the outermost point at which wetland conditions can be identified.

(4) For ponds, lakes, and other impounded surface waters, protection areas widths are measured horizontally, landward from the ordinary high water line. Protection areas requirements do not apply to wet ponds used as structural stormwater control and treatment measures for stormwater.

(5) For other surface waters, the protection area shall be determined by the Land Use Administrator in consideration of the purposes of this section.

(6) When a combination of floodway/non-encroachment area and/or surface water types exist, the most restrictive measurement of surface water protection area shall apply.

(D) *Surface water protection area requirements.* The following requirements shall apply to surface water protection areas as defined herein.

(1) Protection areas shall be left in a naturally vegetated state, unless reforestation of disturbed protection areas is required as part of any site plan approval. When reforestation of a disturbed protection area is required, it shall be done in accordance with a planting plan approved by the Land Use Administrator.

(2) Concentrated runoff from ditches or other manmade conveyances shall be diverted to diffuse flow before the runoff enters the protection area.

(3) Periodic corrective action to restore diffuse flow shall be taken by the property owner as necessary to avoid the formation of erosion gullies.

(4) Diffuse flow of runoff shall be maintained in the protection area by dispersing concentrated flow and reestablishing vegetation.

(5) Surface water protection areas shall be delineated upon any development plan and shall be noted as protection areas within which no disturbance or development shall be permitted.

(6) The following impacts are expressly forbidden in surface water protection areas (including floodways, non-encroachment areas) and associated water bodies:

(a) The placement of fill or the deposition of any natural or manmade material or substance.

(b) New development, substantial improvements, new construction, new impervious surfaces, the placement of structures or any other form of development or encroachment, except those associated with public utilities.

(c) Grading, excavation, the removal of vegetation, or any disturbance of any kind except excavation and fill required to plant any new trees or vegetation.

(d) The ditching, dredging, channelization, straightening, relocation, diking, levying, or any other alteration or modification of any kind, to surface waters, except dredging necessary to maintain pre-existing, human-made water impoundments such as ponds and lakes.

(e) The routing underground (by culvert or other means) of any surface water, except to facilitate crossings by approved roads, streets, driveways, greenways, sidewalks, and other transportation facilities.

(f) The impoundment of water bodies (this shall not prohibit the maintenance of existing ponds, lakes, and other impoundments).

(g) Any other type of encroachment, disturbance, or modification to floodways, nonencroachment areas, or other surface water protection areas or associated surface waters.

(7) The following protection area impacts are permitted provided that design and construction shall comply with applicable town standards for stabilization of disturbed areas to minimize negative effects on the quality of surface waters.

(a) Road crossings for connectivity or transportation links and required utilities including public and private streets, driveways, and bridges, where the town has granted site plan approval.

(b) Parallel water and sewer utility installation as approved by the town.

(c) Approved public or common area open space, paths and trails. Pathways should use existing and proposed utility alignments or previously cleared areas and minimize tree cutting to the maximum extent practicable. To the extent possible, pathways shall be "on-grade" and shall preserve existing drainage patterns and avoid drainage structures that concentrate stormwater.

(d) Incidental drainage improvements/repairs for maintenance provided that such maintenance does not result in channelization, straightening, or modification of the natural course of a stream channel or the deforestation of the regulatory floodway or protection areas.

(e) Mitigation approved by a local, state, or federal agency acting pursuant to Sections 401 or 404 of the Federal Clean Water Act.

(f) Stream bank or stream channel restoration or soil stabilization activities of the North Carolina Cooperative Extension Service, Macon County Soil and Water Conservation Service, USDA Natural Resources Conservation Service, Macon County, the Town of Franklin, the North Carolina Forest Service, or a cooperating organization or entity. This exception does not include the straightening or channelization any watercourse.

(g) The removal of invasive exotic plant and tree species or trees posing a hazard to life or property.

(8) Uses permitted in the protection area shall be coordinated to ensure minimal disturbance of the protection area system. For example, if it is necessary to install utilities within the protection area and if greenway trails are then to be built, they should follow these cleared areas instead of necessitating additional clearing.

(9) The approving authority may reduce the required setbacks by up to 20% of the required distance in order to facilitate compliance with this section. Additional setback deviations shall be considered as variances by the Board of Adjustment in accordance with the procedures set forth in this chapter.
(Ord. passed 10-1-07)

§ 152.197 FLOODPLAIN PROTECTION STANDARDS (RESERVED).

(Ord. passed 10-1-07)

§ 152.198 VARYING REQUIREMENTS WHEN THERE IS AN INCREASE IN FUNCTIONALITY.

Occasionally, development sites will contain steep slopes, surface water areas, and/or flood plain, which, due to previous clearing or development, diking, erosion, or other reasons, are of limited functionality. This chapter seeks to encourage landowners and developers to find creative means to improve these existing conditions. Accordingly, the entity with the authority to grant development authorization pursuant to §§ 152.050 - 152.062, above, may vary the requirements of this subchapter when the applicant for development authorization demonstrates the proposed development, along with any management practices, will result in an increase of functionality of any regulated natural resources on the development site. Any mitigation proposed to offset loss of a natural resource regulated herein must take place on the development site itself or on neighboring properties pursuant to a recorded easement authorizing such activities.
(Ord. passed 10-1-07)

§ 152.199 REMEDIES FOR VIOLATIONS OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ARTICLE.

In addition to any other remedies provided in this chapter or elsewhere, the Land Use Administrator is authorized to require restoration of any natural resources damaged or destroyed in violation of the provisions of this subchapter.
(Ord. passed 10-1-07)

CHAPTER 153: RESERVED

CHAPTER 154: WIRELESS TELECOMMUNICATIONS FACILITIES

Section

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154.99 Penalty

Cross-reference:

Streets and sidewalks, see Ch. 95

§ 154.01 SHORT TITLE.

This chapter shall be known and cited as the Wireless Telecommunications Facilities Siting Ordinance for the Town of Franklin.
(Ord. passed 10-7-02)

§ 154.02 PURPOSE.

The Telecommunications Act of 1996 affirmed the town's authority concerning the placement, construction and modification of wireless telecommunications facilities. The town finds that wireless telecommunications facilities may pose significant concerns to the health, safety, public welfare, character and environment of the town and its inhabitants. The town also recognizes that facilitating the development of wireless service technology can be an economic development asset to the town and of significant benefit to the town and its residents. In order to insure that the placement, construction or modification of wireless telecommunications facilities is consistent with the town's land use policies, the town is adopting a single, comprehensive, wireless telecommunications facilities application and permit process. The intent of this chapter is to minimize the negative impact of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the town.
(Ord. passed 10-7-02)

§ 154.03 DEFINITIONS.

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

ACCESSORY FACILITY or ***STRUCTURE.*** An accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.

ALDERMEN. The Board of Aldermen of the Town of Franklin.

APPLICANT. Any wireless service provider submitting an application for a special use permit for wireless telecommunications facilities.

APPLICATION. All necessary and appropriate documentation that an applicant submits in order to receive a special use permit for wireless telecommunications facilities.

ANTENNA. A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, paging, personal telecommunications services (PCS), microwave telecommunications and services not licensed by the FCC, but not expressly exempt from the town's siting, building and permitting authority.

CO-LOCATION. The use of a tower or structure to support antennae for the provision of wireless services without increasing the height of the tower or structure.

COMMERCIAL IMPRACTICABILITY or ***COMMERCIALLY IMPRACTICABLE.*** The inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be ***COMMERCIAL IMPRACTICABLE*** and shall not render an act or the terms of an agreement ***COMMERCIALLY IMPRACTICABLE***.

COMPLETED APPLICATION. An application that contains all information and/or data necessary to enable an informed decision to be made with respect to an application.

FAA. The Federal Aviation Administration, or its duly designated and authorized successor agency.

FCC. The Federal Communications Commission, or its duly designated and authorized successor agency.

HEIGHT. The distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightning protection device.

MODIFICATION or ***MODIFY.*** The addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, radios, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or changeout of equipment for better or more modem equipment. Adding a new wireless carrier or service provider to a telecommunications tower or telecommunications site is a modification. A modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

NIER. Non-Ionizing Electromagnetic Radiation.

PERSON. Any individual, corporation, estate, trust, partnership, joint stock company, association of two or more persons having a joint common interest, or any other entity.

PERSONAL WIRELESS FACILITY. See ***WIRELESS TELECOMMUNICATIONS FACILITIES***.

PERSONAL WIRELESS SERVICES or ***PWS*** or ***PERSONAL TELECOMMUNICATIONS SERVICE*** or ***PCS***. The same meaning as defined and used in the 1996 Telecommunications Act.

TELECOMMUNICATION SITE. See ***WIRELESS TELECOMMUNICATIONS FACILITIES***.

TOWN. The Town of Franklin, North Carolina.

SPECIAL USE PERMIT. The official document or permit by which an applicant is allowed to construct and use wireless telecommunications facilities as granted or issued by the town.

STEALTH or ***STEALTH TECHNOLOGY.*** Minimal adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances,.

STATE. The State of North Carolina.

TELECOMMUNICATIONS. The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

TELECOMMUNICATIONS STRUCTURE. A structure used in the provision of services described in the definition of ***WIRELESS TELECOMMUNICATIONS FACILITIES***.

TEMPORARY. In relation to all aspects and components of this chapter, something intended to, or that does, exist for fewer than 90 days.

WIRELESS TELECOMMUNICATIONS FACILITIES, TELECOMMUNICATIONS TOWER, TOWER, TELECOMMUNICATIONS SITE and ***PERSONAL WIRELESS FACILITY.*** A structure, facility or location designed, or intended to be used as, or used to support, antennas or other transmitting or receiving devices. This includes without limit, towers of all types and kinds and structures that employ camouflage technology, including, but not limited to, structures such as a multi-story building, church steeple, silo, water tower, sign or other structures that can be used to mitigate the visual impact of an antenna or the functional equivalent of such, including all related facilities such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal telecommunications services, commercial satellite services, microwave services and services not licensed by the FCC, but not expressly exempt from the town's siting, building and permitting authority, excluding those used exclusively for the town's fire, police or exclusively for private, noncommercial radio and television reception and private citizen's bands, amateur radio and other similar non-commercial telecommunications where the height of the facility is below the height limits set forth in this chapter.
(Ord. passed 10-7-02)

§ 154.04 SPECIAL USE PERMITS.

In order to ensure that the placement, construction, and modification of wireless telecommunications facilities protects the town's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this chapter, the town hereby adopts an overall policy with respect to a special use permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

(A) Implementing an application process for person(s) seeking a special use permit for wireless telecommunications facilities;

(B) Establishing a policy for examining an application for and issuing a special use permit for wireless telecommunications facilities that is both fair and consistent;

(C) Promoting and encouraging, wherever possible, the sharing and/or co-location of wireless telecommunications facilities among service providers;

(D) Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.
(Ord. passed 10-7-02)

§ 154.05 PERMIT APPLICATION; REQUIREMENTS.

(A) All applicants for a special use permit for wireless telecommunications facilities or any modification of such facility shall comply with the requirements set forth in this section. The Town Board is the officially designated agency or body of the town to whom applications for a special use permit for wireless telecommunications facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, recertifying or not recertifying, or revoking special use permits for wireless telecommunications facilities. The town may at its discretion delegate or designate other official agencies of the town to accept, review, analyze, evaluate and make recommendations to the Town Board with respect to the granting or not granting, recertifying or not recertilying or revoking special use permits for wireless telecommunications facilities.

(B) An application for a special use permit for wireless telecommunications facilities shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the applicant, shall also sign the application. At the discretion of the town, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.

(C) Applications not meeting the requirements stated herein or which are otherwise incomplete, may be rejected by the town.

(D) The applicant shall include a statement in writing:

(1) That the applicant's proposed wireless telecommunications facilities shall be maintained in a safe manner, and in compliance with all conditions of the special use permit, without exception, unless specifically granted relief by the town in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable town, state and federal laws, rules and regulations;

(2) That the construction of the wireless telecommunications facilities are legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the state.

(E) No wireless telecommunications facilities shall be installed or constructed until the application is reviewed and approved by the town, and the special use permit has been issued.

(F) All applications for the construction or installation of new wireless telecommunications facilities shall contain the information hereinafter set forth. The application shall be signed by an authorized individual on behalf of the applicant. Where a certification is called for, such certification shall bear the signature and seal of a professional engineer licensed in the state. The application shall include the following information:

(1) Documentation that demonstrates the need for the wireless telecommunications facility to provide service primarily and essentially within the town. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites;

(2) The name, address and phone number of the person preparing the report;

(3) The name, address, and phone number of the property owner, operator, and applicant, and to include the legal form of the applicant;

(4) The postal address and tax map parcel number of the property;

(5) The zoning district or designation in which the property is situated;

(6) Size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines;

(7) The location of the nearest residential structure;

(8) The location, size and height of all structures on the property which is the subject of the application;

(9) The location, size and height of all proposed and existing antennae and all appurtenant structures;

(10) The type, locations and dimensions of all proposed and existing landscaping, and fencing;

(11) The number, type and design of the tower(s) and antenna(s) proposed and the basis for the calculations of the tower's capacity to accommodate multiple users;

(12) The make, model and manufacturer of the tower and antenna(s);

(13) A description of the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;

(14) The frequency, modulation and class of service of radio or other transmitting equipment;

(15) The actual intended transmission and the maximum effective radiated power of the antenna(s);

(16) Direction of maximum lobes and associated radiation of the antenna(s);

(17) Certification that the NIER levels at the proposed site are within the threshold levels adopted by the FCC;

(18) Certification that the proposed antenna(s) will not cause interference with other telecommunications devices;

(19) A copy of the FCC license applicable for the intended use of the wireless Telecommunications facilities;

(20) Certification that a topographic and geomorphologic study and analysis has been conducted, and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed wireless telecommunications facilities on the proposed site.

(G) In the case of a new tower, the applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing tower(s) or the use of alternative buildings or other structures within the town. Copies of written requests and responses for shared use shall be provided to the town in the application, along with any letters of rejection stating the reason for rejection.

(H) The applicant shall certify that the telecommunication facility, foundation and attachments are designed and will be constructed to meet all local, county, state and federal structural requirements for loads, including wind and ice loads.

(I) The applicant shall certify that the wireless telecommunications facilities will be effectively grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.

(J) An applicant may be required to submit an environmental assessment analysis and a visual addendum. Based on the results of the analysis, including the visual addendum, the town may require submission of a more detailed visual analysis. The scope of the required environmental and visual assessment will be reviewed at the pre-application meeting.

(K) The applicant shall furnish a visual impact assessment, which shall include:

(1) A "Zone of Visibility Map" which shall be provided in order to determine locations from which the tower may be seen;

(2) Pictorial representations of "before and after" views from key viewpoints both inside and outside of the town as may be appropriate, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided concerning the appropriate key sites at a pre-application meeting;

(3) An assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.

(L) The applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related facilities and structures of the proposed wireless telecommunications facilities.

(M) Any and all representations made by the applicant to the town on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the town.

(N) All utilities at a wireless telecommunications facilities site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the town, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

(O) All wireless telecommunications facilities shall contain a demonstration that the facility be sited so as to be the least visually intrusive reasonably possible and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the wireless telecommunications facility.

(P) Both the wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall

include the utilization of stealth or concealment technology as may required by the town.

(Q) At a telecommunications site, an access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

(R) A person who holds a special use permit for wireless telecommunications facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted wireless telecommunications facilities in strict compliance with all current applicable technical, safety and safety-related codes adopted by the town, county, state, or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

(S) A holder of a special use permit granted under this chapter shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the town or other governmental entity or agency having jurisdiction over the applicant.

(T) An applicant shall submit to the town the number of completed applications determined to be needed at the pre-application meeting. Written notification of the application shall be provided to the legislative body of all adjacent municipalities and to the town administrator.

(U) The applicant shall examine the feasibility of designing a proposed tower to accommodate future demand for at least five additional commercial applications, for example, future co-locations. The tower shall be structurally designed to accommodate at least five additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:

(1) The foreseeable number of FCC licenses available for the area;

(2) The kind of wireless telecommunications facilities site and structure proposed;

(3) The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;

(4) Available space on existing and approved towers.

(V) (1) The owner of the proposed new tower, and his or her successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall:

(a) Respond within 60 days to a request for information from a potential shared use applicant;

(b) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;

(c) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

(2) Failure to abide by the conditions outlined above may be grounds for revocation of the special use permit for the tower.

(W) There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues which will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site. Costs of the

town's consultants to prepare for and attend the pre-application meeting will be borne by the applicant.

(X) The holder of a special use permit shall notify the town of any intended modification of a wireless telecommunication facility and shall apply to the town to modify, relocate or rebuild a wireless telecommunications facility.

(Y) In order to better inform the public, in the case of a new telecommunication tower, the applicant shall, prior to the public hearing on the application, hold a "balloon test." The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three foot in diameter brightly colored balloon at the maximum height of the proposed new tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the applicant 7 and 14 days in advance of the first test date in a newspaper with a general circulation in the town. The applicant shall inform the town, in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 a.m. and 4:00 p.m. on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday.

(Z) The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the tower or existing structure intended to support wireless facilities requires lighting under Federal Aviation Administration Regulation Part 77. This requirement shall be for any new tower or for an existing structure or building where the application increases the height of the structure or building. If this analysis determines that the FAA must be contacted, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided in a timely manner.
(Ord. passed 10-7-02)

§ 154.06 LOCATION.

(A) Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, (1) being the highest priority and (5) being the lowest priority:

(1) On existing towers or other structures without increasing the height of the tower or structure;

(2) On town-owned properties or facilities;

(3) On properties in areas zoned for Industrial use;

(4) On properties in areas zoned for Commercial use;

(5) On properties in areas zoned for Residential use.

(B) If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.

(C) An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the town why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.

(D) Notwithstanding the above, the town may approve any site located within an area in the above list of priorities, provided that the town finds that the proposed site is in the best interest of the health, safety and welfare of the town and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.

(E) The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.

(F) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the town may disapprove an application for any of the following reasons:

(1) Conflict with safety and safety-related codes and requirements;

(2) Conflict with the historic nature or character of a neighborhood or historical district;

(3) The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation;

(4) The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the town, or employees of the service provider or other service providers;

(5) Conflicts with the provisions of this chapter.
(Ord. passed 10-7-02)

§ 154.07 SHARED USE.

(A) Locating on existing towers or other structures without increasing the height, shall be preferred by the town, as opposed to the construction of a new tower. The applicant shall submit a comprehensive report inventorying existing towers and other suitable structures within four miles of the location of any proposed new tower, unless the applicant can show that some other distance is more reasonable and demonstrate conclusively why an exiting tower or other suitable structure cannot be used.

(B) An applicant intending to locate on an existing tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the applicant.

(C) Such shared use shall consist only of the minimum antenna array technologically required to provide service primarily and essentially within the town, to the extent practicable, unless good cause is shown.
(Ord. passed 10-7-02)

§ 154.08 HEIGHT OF TELECOMMUNICATIONS TOWERS.

(A) The applicant shall submit documentation justifying the total height of any tower, facility and/or antenna and the basis therefore. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the town, to the extent practicable, unless good cause is shown.

(B) Notwithstanding the provisions of division (A), the maximum permitted height of a new tower shall be 140 feet, based on an ambient tree height of 80 feet and accommodating six co-located antenna arrays requiring six feet of vertical space each.

(C) Notwithstanding the provisions of division (A), no tower constructed after the effective date of this chapter, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with municipal, county, state, and/or any federal statute, law, local law, town ordinance, code, rule or regulation.
(Ord. passed 10-7-02)

§ 154.09 APPEARANCE AND VISIBILITY.

(A) Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.

(B) Towers shall be galvanized or, if deemed necessary, painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this chapter.

(C) If lighting is required, applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under state and federal regulations, but in any event shall be shielded from view from the ground as may be permitted by controlling law, rules and regulations.
(Ord. passed 10-7-02)

§ 154.10 SECURITY.

All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

(1) All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and

(2) Transmitters and telecommunications control points shall be installed such a manner that they are readily accessible only to persons authorized to operate or service them.
(Ord. passed 10-7-02)

§ 154.11 SIGNAGE.

Wireless telecommunications facilities shall contain a sign no larger than four square feet in order to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities and shall contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. The sign shall not be lighted, unless lighting is required by applicable law, rule or regulation. No other signage, including advertising, shall be permitted.
(Ord. passed 10-7-02)

§ 154.12 LOT SIZE AND SETBACKS.

All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the proposed tower or wireless telecommunications facility structure plus 10% of the height of the tower or structure, or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.
(Ord. passed 10-7-02)

§ 154.13 RETENTION OF EXPERT ASSISTANCE AND REIMBURSEMENT BY APPLICANT.

(A) The town may hire any consultant and/or expert necessary to assist the town in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any requests for recertification.

(B) An applicant shall deposit with the town funds sufficient to reimburse the town for all reasonable costs of consultant and expert evaluation and consultation to the town in connection with the review of any application including the construction and modification of the site, once permitted. The initial deposit shall be $8,500. The placement of the $8,500 with the town shall precede the pre-application meeting. The town will maintain a separate escrow account for all such funds. The town's consultants/experts shall invoice the town for its services in reviewing the application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than $2,500, the applicant shall immediately, upon notification by the town, replenish said escrow account so that it has a balance of at least $5,000. Such additional escrow funds shall be deposited with the town before any further action or consideration is taken on the application. In the event that the amount held in escrow by the town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.

(C) The total amount of the funds needed as set forth in division (B) may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.
(Ord. passed 10-7-02)

§ 154.14 EXCEPTIONS FROM A SPECIAL USE PERMIT.

(A) No person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of wireless telecommunications facilities as of the effective date of this chapter without having first obtained a special use permit for wireless telecommunications facilities. Notwithstanding anything to the contrary in this section, no special use permit shall be required for those non-commercial exceptions noted in the definition of wireless telecommunications facilities.

(B) All wireless telecommunications facilities existing on or before the effective date of this chapter shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing wireless telecommunications facility must comply with this chapter.
(Ord. passed 10-7-02)

§ 154.15 PUBLIC HEARING AND NOTIFICATION REQUIREMENTS.

(A) Prior to the approval of any application for a special use permit for wireless telecommunications facilities, a public hearing shall be held by the town, notice of which shall be published in the official newspaper of the town no less than ten calendar days prior to the scheduled date of the public hearing. In order that the town may notify nearby landowners, the application shall contain the names and address of all landowners whose property is located within 1,500 feet of any property line of the lot or parcel on which the new wireless telecommunications facilities are proposed to be located.

(B) There shall be no public hearing required for an application to co-locate on an existing tower or other structure, as long as there is no proposed increase in the height of the tower or structure, including attachments thereto.

(C) The town shall schedule the public hearing referred to in division (A) once it finds the application is complete. The town, at any stage prior to issuing a special use permit, may require such additional information as it deems necessary.
(Ord. passed 10-7-02)

§ 154.16 ACTION ON AN APPLICATION FOR A SPECIAL USE PERMIT.

(A) The town will undertake a review of an application pursuant to this chapter in a timely fashion, and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.

(B) The town may refer any application or part thereof to any advisory or other committee for a non-binding recommendation.

(C) After the public hearing and after formally considering the application, the town may approve, approve with conditions, or deny a special use permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the permit shall always be upon the applicant.

(D) If the town approves the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such approval in writing within ten calendar days of the town's action, and the special use permit shall be issued within 30 days after such approval. Except for necessary building permits, and subsequent certificates of compliance, once a special use permit has been granted hereunder, no additional permits or approvals from the town, such as site plan or zoning approvals, shall be required by the town for the wireless telecommunications facilities covered by the special use permit.

(E) If the town denies the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such denial in writing within ten calendar days of the town's action.
(Ord. passed 10-7-02)

§ 154.17 RECERTIFICATION OF A SPECIAL USE PERMIT.

(A) Between 12 months and six months prior to the five year anniversary date after the effective date of the special use permit and all subsequent five year anniversaries of the effective date of the original special use permit for wireless telecommunications facilities, the holder of a special use permit for such wireless telecommunication facilities shall submit a signed written request to the town for recertification. In the written request for recertification, the holder of such special use permit shall note the following:

(1) The name of the holder of the special use permit for the wireless telecommunications facilities;

(2) If applicable, the number or title of the special use permit;

(3) The date of the original granting of the special use permit;

(4) Whether the wireless telecommunications facilities have been moved, re-located, rebuilt, or otherwise visibly modified since the issuance of the special use permit and if so, in what manner;

(5) If the wireless telecommunications facilities have been moved, re-located, rebuilt, or otherwise visibly modified, then whether the town approved such action, and under what terms and conditions, and whether those terms and conditions were complied with;

(6) That the wireless telecommunications facilities are in compliance with the special use permit and compliance with all applicable codes, laws, rules and regulations;

(7) The date of the last inspection of the tower or wireless telecommunications facilities;

(8) Recertification that the tower and attachments both are designed and constructed and continue to meet all local, town, state and federal structural requirements for loads, including wind and ice loads. Such recertification shall be by a professional engineer licensed in the state, the cost of which shall be borne by the applicant.

(B) If, after such review, the town determines that the permitted wireless telecommunications facilities are in compliance with the special use permit and all applicable statutes, laws, local laws, ordinances, codes, rules and regulations, then the town may issue a recertification of the special use permit for the wireless telecommunications facilities, which may include any new provisions or conditions that are mutually agreed upon, or that are required by applicable statutes, laws, ordinances, codes, rules or regulations. If, after such review it is determined that the permitted wireless telecommunications facilities are not in compliance with the special use permit and all applicable statutes, laws, ordinances, codes, rules and regulations, then the town may refuse to issue a recertification special use permit for the wireless telecommunications facilities, and in such event, such wireless telecommunications facilities shall not be used after the date that the applicant receives written notice of the decision by the town until such time as the facility is brought into compliance. Any decision requiring the cessation of use of the facility or imposing a penalty shall be in writing and supported by substantial evidence contained in a written record and shall be promptly provided to the owner of the facility.

(C) If the applicant has submitted all of the information requested and required by this chapter, and if the review is not completed, as noted in division (B), prior to the five year anniversary date of the special use permit, or subsequent five year anniversaries, then the applicant for the permitted wireless telecommunications facilities shall receive an extension of the special use permit for up to six months, in order for the completion of the review.

(D) If the holder of a special use permit for wireless telecommunications facilities does not submit a request for recertification of such special use permit within the time frame noted in division (A), then such special use permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the special use permit, or subsequent five year anniversaries, unless the holder of the special use permit adequately demonstrates that extenuating circumstances prevented a timely recertification request. If the town agrees that there were legitimately extenuating circumstances, then the holder of the special use permit may submit a late recertification request or application for a new special use permit.
(Ord. passed 10-7-02)

§ 154.18 EXTENT AND PARAMETERS OF SPECIAL USE PERMIT.

The extent and parameters of a special use permit for wireless telecommunications facilities shall be as follows:

(A) Such special use permit shall be non-exclusive;

(B) Such special use permit shall not be assigned, transferred or conveyed without the express prior written notification to the town;

(C) Such special use permit may, following a hearing upon due prior notice to the applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the special use

permit, or for a material violation of this chapter after prior written notice to the holder of the special use permit.
(Ord. passed 10-7-02)

§ 154.19 APPLICATION FEE.

(A) At the time that a person submits an application for a special use permit for a new tower, such person shall pay a non-refundable application fee of $5,000 to the town. If the application is for a special use permit for co-locating on an existing tower or other suitable structure, where no increase in height of the tower or structure is required, the nonrefundable fee shall be $2,000.

(B) No application fee is required in order to rectify a special use permit for wireless telecommunications facilities, unless there has been a visible modification of the wireless telecommunications facility since the date of the issuance of the existing special use permit for which the conditions of the special use permit have not previously been modified. In the case of any modification, the fees provided in division (A) shall apply.
(Ord. passed 10-7-02)

§ 154.20 PERFORMANCE SECURITY.

The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the town a bond, or other form of security acceptable to the town as to type of security and the form and manner of execution, in an amount of at least $75,000 and with such sureties as are deemed sufficient by the town to assure the faithful performance of the terms and conditions of this chapter and conditions of any special use permit issued pursuant to this chapter. For co-locations that do not increase the height of the structure attached to, the bond or other security shall be $25,000. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit.
(Ord. passed 10-7-02)

§ 154.21 RESERVATION OF AUTHORITY TO INSPECT WIRELESS TELECOMMUNICATIONS FACILITIES.

In order to verify that the holder of a special use permit for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the town may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site.
(Ord. passed 10-7-02)

§ 154.22 ANNUAL NIER CERTIFICATION.

The holder of the special use permit shall, annually, certify to the town that NIER levels at the site are within the threshold levels adopted by the FCC.
(Ord. passed 10-7-02)

§ 154.23 LIABILITY INSURANCE.

(A) A holder of a special use permit for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the special use permit in amounts as set forth below:

(1) Commercial general liability covering personal injuries, death and property damage: $1,000,000 per occurrence/$2,000,000 aggregate;

(2) Automobile coverage: $1,000,000 per occurrence/$2,000,000 aggregate;

(3) Workers compensation and disability: statutory amounts.

(B) The commercial general liability insurance policy shall specifically include the town and its officers, boards, employees, committee members, attorneys, agents and consultants as additional named insureds.

(C) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least "A."

(D) The insurance policies shall contain an endorsement obligating the insurance company to furnish the town with at least 30 days prior written notice in advance of the cancellation of the insurance.

(E) Renewal or replacement policies or certificates shall be delivered to the town at least 15 days before the expiration of the insurance that such policies are to renew or replace.

(F) Before construction of a permitted wireless telecommunications facilities is initiated, but in no case later than 15 days after the grant of the special use permit, the holder of the special use permit shall deliver to the town a copy of each of the policies or certificates representing the insurance in the required amounts.
(Ord. passed 10-7-02)

§ 154.24 INDEMNIFICATION.

(A) Any application for wireless telecommunication facilities that is proposed for town property, pursuant to this chapter, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the town, and its officers, boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the town, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the town.

(B) Notwithstanding the requirements noted in division (A), an indemnification provision will not be required in those instances where the town itself applies for and secures a special use permit for wireless telecommunications facilities.
(Ord. passed 10-7-02)

§ 154.25 DEFAULT AND/OR REVOCATION.

(A) If wireless telecommunications facilities are repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this chapter or of the special use permit, then the town shall notify the holder of the special use permit in writing of such violation. Such notice shall specify the nature of the violation or non-compliance and that the violations must be corrected within seven days of the date of the postmark of the notice, or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this chapter, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the town may, at its sole discretion, order the violation remedied within 24 hours.

(B) If within the period set forth in division (A) above the wireless telecommunications facilities are not brought into compliance with the provisions of this chapter, or of the special use permit, or substantial steps are not taken in order to bring the affected wireless telecommunications facilities into compliance, then the town may revoke such special use permit for wireless telecommunications facilities, and shall notify the holder of the special use permit within 48 hours of such action.
(Ord. passed 10-7-02)

§ 154.26 REMOVAL OF WIRELESS TELECOMMUNICATIONS FACILITIES.

(A) Under the following circumstances, the town may determine that the health, safety, and welfare interests of the town warrant and require the removal of wireless telecommunications facilities.

(1) Wireless telecommunications facilities with a permit that have been abandoned (not used as wireless telecommunications facilities) for a period exceeding 90 consecutive days or a total of 180 days in any 365 day period, except for periods caused by force majeure or acts of God, in which case, repair or removal shall commence within 90 days;

(2) Permitted wireless telecommunications facilities fall into such a state of disrepair that it creates a health or safety hazard;

(3) Wireless telecommunications facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required special use permit, or any other necessary authorization.

(B) If the town makes such a determination as noted in division (A), then the town shall notify the holder of the special use permit for the wireless telecommunications facilities within 48 hours that said wireless telecommunications facilities are to be removed, the town may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless telecommunications facilities.

(C) The holder of the special use permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the town. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the town.

(D) If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within 90 days after the permit holder has received notice, then the town may order officials or representatives of the town to remove the wireless telecommunications facilities at the sole expense of the owner or special use permit holder.

(E) If the town removes, or causes to be removed, wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim and remove it from the site to a lawful location within ten days, then the town may take steps to declare the wireless telecommunications facilities abandoned, and sell them and their components.

(F) Notwithstanding anything in this section to the contrary, the town may approve a temporary use permit/agreement for the wireless telecommunications facilities, for no more than 90 days, during which time a suitable plan for removal, conversion, or re-location of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the town, and an agreement to such plan shall be executed by the holder of the special use permit and the town. If such a plan is not developed, approved and executed within the 90 day time period, then the town may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this section.
(Ord. passed 10-7-02)

§ 154.27 RELIEF.

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this chapter may request such at the pre-application meeting, provided that the relief or exemption is contained in the original application for either a special use permit, or in the case of an existing or previously granted special use permit a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the town in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the town, its residents and other service providers.
(Ord. passed 10-7-02)

§ 154.28 PERIODIC REGULATORY REVIEW.

(A) The town may at any time conduct a review and examination of this entire chapter.

(B) If after such a periodic review and examination of this chapter, the town determines that one or more provisions of this chapter should be amended, repealed, revised, clarified, or deleted, then the town may take whatever measures are necessary in accordance with applicable law in order to accomplish the same. It is noted that where warranted, and in the best interests of the town, the town may repeal this entire chapter at any time.

(C) Notwithstanding the provisions of divisions (A) and (B), the town may at any time, and in any manner (to the extent permitted by federal, state, or local law), amend, add, repeal, and/or delete one or more provisions of this chapter.
(Ord. passed 10-7-02)

§ 154.29 ADHERENCE TO STATE AND/OR FEDERAL RULES AND REGULATIONS.

(A) To the extent that the holder of a special use permit for wireless telecommunications facilities has not received relief, or is otherwise exempt, from appropriate state and/or federal agency rules or regulations, then the holder of such a special use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

(B) To the extent that applicable rules, regulations, standards, and provisions of any state or federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a special use permit for wireless telecommunications facilities, then the holder of such a special use permit shall conform the permitted wireless telecommunications facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.
(Ord. passed 10-7-02)

§ 154.99 PENALTY.

(A) In the event of a violation of this chapter or any special use permit issued pursuant to this chapter, the town may impose and collect, and the holder of the special use permit for wireless telecommunications facilities shall pay to the town, fines or penalties as set forth below.

(B) A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding $350 per day per occurrence or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than $350 nor more than $700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than $700 nor more than $1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this article or of such ordinance or regulation shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

(C) Notwithstanding anything in this chapter, the holder of the special use permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this chapter or any section of this chapter. An attempt to do so shall subject the holder of the special use permit to termination and revocation of the special use permit. The town may also seek injunctive relief to prevent the continued violation of this chapter, without limiting other remedies available to the town.
(Ord. passed 10-7-02)

CHAPTER 155: SIGN REGULATIONS

Section

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§ 155.01 PURPOSE AND SCOPE.

(A) *Purpose of sign regulations.* The purpose of this chapter is to provide sign standards and restrictions which allow for the legitimate needs for identification of residential, office, commercial, industrial and other activities while at the same time promoting signs which do not unduly detract from the overall aesthetics of the community; which reduce intrusions and protect property values which provide for improved public safety by minimizing undue distraction of the motoring public; which provide standards for the erection and maintenance of signs; which provide for the protection and enhancement of the tourist industry by promoting a more harmonious and pleasing community image; which provide equitability for the nature and scale of the activities to be identified; and which generally enhance and strengthen the economic stability of the Town of Franklin.

(B) *Scope*. the provisions of this chapter shall apply to the erection and maintenance of all signs and sign structures within the jurisdiction of the town and its adopted extraterritorial jurisdiction (ETJ) and it shall be unlawful following the effective date of this chapter to erect, maintain or alter any sign or sign structure except in conformance with the provisions of th is chapter and application sections of the Unified Development Ordinance (UDO).
(Ord. passed 3-1-10)

§ 155.02 DEFINITIONS.

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

ABANDONED SIGN. A sign erected in conjunction with a particular use, which use has been discontinued for a period of 180 days or more, or a temporary sign for an event which has occurred.

BANNER. Any sign of lightweight fabric or similar material that is mounted to a pole or a building by a frame or ties at one or more edges, not exceeding 36 square feet. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

CHANGEABLE COPY SIGN. A sign on which message copy is changed manually or electronically in the field, through the utilization of attachable letters, numbers, symbols and other similar characters or changeable pictorial panels. Time and temperature signs are not included in this definition.

COMMEMORATIVE SIGN. Any sign erected in remembrance of a person or event or which is commemorative in nature. Any ***COMMEMORATIVE SIGN*** shall be approved by the town aldermen.

COMMERCIAL MESSAGE. Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

COMMUNITY FESTIVAL SIGN. Signs that are placed to commemorate and/or attract attention to a community festival officially recognized by the town aldermen.

CONSTRUCTION SIGN. A temporary sign whose message is limited to identification of architects, engineers, contractors, and other individuals or firms involved with construction on a specific site, the name of the building, the intended purpose of the building, and the expected completion date.

DIRECTIONAL SIGN, ON OR OFF-PREMISES. Any sign only indicating the location of or providing directions to a business, development, or other activity.

ELECTRONIC CHANGEABLE MESSAGE SIGN (ECMS). Any sign with a message, text, or photo made wholly or partially of lights, including but not limited to, light emitting diodes (LED), incandescent lights, or exposed light bulbs.

EXEMPT SIGN. Any signs that are specifically listed as exempt for this chapter. The listed ***EXEMPT SIGNS*** are not regulated by the terms of this chapter.

FLAG. Any fabric, banner, or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision, or other entity.

FLASHING SIGN. A sign that incorporates flashing or blinking lights, or other lighting that is not constant in intensity or that exhibits sudden or marked changes in lighting effects, or a sign with moving parts, or parts which simulate movement, including signs or lights on signs reflecting or emitting a glaring or distracting light that could impair or distract driver vision.

GOVERNMENTAL SIGN. Any sign erected by or on the order of an authorized public official in the performance of his or her office or duty including, but not limited to, traffic control signs, street name signs, warning and directions signs, public notice, or signs of a similar nature.

HOME OCCUPATION SIGN. A sign used in association with a permitted home occupation conducted in the dwelling unit occupied by the operator of the business.

ILLEGAL SIGN. Any sign erected or maintained in violation of this chapter or erected, altered, moved, repaired, maintained, or replaced in violation of this chapter.

INCIDENTAL SIGN. A single or double-faced, announcement sign containing information relative to emergencies, store hours, credit cards honored, directional arrows, entrance, exit, and other similar accessory information. No sign with an advertising message legible from a position off the property on which the sign is located shall be considered incidental.

MULTIPLE TENANT DEVELOPMENT. A development in which there exists a number of individual and/or separate activities, in which there are appurtenant-shared facilities such as parking.

NONCOMMERCIAL MESSAGE. Any message protected by the First Amendment that does not direct attention to a business operated for profit, or to a commodity or service for sale.

NONCONFORMING SIGN. A sign legally erected and in existence prior to the date of adoption of this chapter or an amendment to the chapter, that does not meet the standards imposed by this chapter. An ***ILLEGAL SIGN*** is not a nonconforming sign.

OFF-PREMISES ADVERTISING SIGN. A sign identifying, advertising or directing the public to a business, merchandise, service, institution, residential area, entertainment, or activity which is located, sold, rented, based, produced, manufactured, furnished or taking place at a location other than the property on which the sign is located. This term is sometimes interchanged with the terms outdoor advertising or billboards.

ON-PREMISES ADVERTISING SIGN. A sign identifying or advertising a business, person, activity, goods, products, or services located on the premises where the sign is installed and maintained.

PENNANT. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

POLITICAL SIGN. A sign erected for the purpose of advertising a candidate or stating a position regarding an issue upon which the voters of the town may vote.

PORTABLE SIGN. A sign generally constructed to be easily movable without a permanent attachment to the ground and which may or may not be equipped with wheels, including, but not limited to A or T frames, menu and sandwich board signs, balloons or other inflatable devices designed to attract attention or used as signs. Such signs may be designed for changeable messages.

Signs painted on or attached to operational vehicles used in the normal day-to-day operations of the business, and signs defined as temporary signs are not included in this definition.

REAL ESTATE SIGN. A sign erected by the owner, or his or her agent, advertising real property upon which the sign is located for rent, for lease, or for sale.

ROOF SIGN. A sign erected over or on and wholly supported by or partially dependent upon the roof of any building for support, or attached to the roof in any way and which extends in any part above the roofline of the building.

SETBACK. The shortest horizontal distance between the edge of the pavement or traveled surface and the closest point of a sign or its supporting member.

SIGN. Any form of publicity or advertising which is designed to be visible from any public way, directing attention to an individual business, commodity, service, activity or product by means of words, lettering, numerals, trade names, or trademarks, or other pictorial matter designed to convey such information.

SIGN STRUCTURE. A supporting structure erected or intended for the purpose of identification, with or without a sign thereon, situated upon or attached to the premises upon which any sign may be fastened, affixed, displayed or applied, provided however, said definition shall not include a building or fence.

TEMPORARY SIGN. Any sign, whether attached to a principle structure or free standing, which is intended to be displayed for a limited time for a specific event. This definition does not include portable signs. If a sign display area is permanent but the copy displayed is subject to periodic changes, that sign shall not be regarded as temporary.
(Ord. passed 3-1-10)

§ 155.03 AREA OF SIGN DEFINED.

The area of a sign shall be considered to be that of the smallest figure which encompasses all lettering, wording, design or symbols, but which shall have a continuous perimeter of not more than eight straight lines, together with any background difference on which the sign is located if such background is designed as an integral part of and related to the sign. Any cutouts or extensions shall be included in the area of the sign, but supports and bracing which are not intended as part of the message shall be excluded. In the case of a double-faced sign, where the faces are part of the same sign structure and not more than 36 inches apart, the area of the sign shall be considered to include all faces visible from any one point. The area of a wall or window sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window shall be considered to be that of the smallest rectangle which encompasses all of the letters or symbols.
(Ord. passed 3-1-10)

§ 155.04 METHOD OF ATTACHMENT DEFINED.

(A) *Attached sign.* Any sign attached to, applied on, or supported by any part of a building (such as a wall, window, canopy, awning, marquee or on the slope of a roof but not extending above the roof line) which encloses or covers useable space.

(B) *Free-standing detached signs.* Signs supported by a structure placed in the ground and which are wholly independent of any building or object other than the sign structure for support.
(Ord. passed 3-1-10)

§ 155.05 HEIGHT OF FREE-STANDING, DETACHED SIGNS DEFINED.

The height of a free-standing detached sign shall not exceed the maximum height set forth in this chapter. The height of a free-standing detached sign shall be measured as the vertical distance from the uppermost point of the sign or sign structure, whichever is higher, and the base of the sign at grade. However, when the base of a sign at grade is located below the adjacent street grade, the height of the sign shall be measured from the uppermost point of the sign or sign structure to the street grade.
(Ord. passed 3-1-10)

§ 155.06 VALUE OF SIGNS DEFINED.

The value of an existing sign shall be the value for tax purposes of any sign so listed. If the tax value is not available, the value shall mean the original cost of the sign. In the absence of information as to the original cost submitted by the sign owner, the Land Use Administrator shall estimate the original cost based upon the best information reasonably available.
(Ord. passed 3-1-10)

§ 155.07 PERMITS REQUIRED.

All signs hereafter erected, placed, posted, attached, painted or otherwise made visible from an adjacent property or right-of-way require a sign permit in accordance with the provisions of this chapter except as otherwise prohibited, exempted or not requiring a permit by this chapter. Any sign that requires a permit, which is displayed without the requisite permit, shall be in violation of this chapter and shall be considered an illegal sign.
(Ord. passed 3-1-10)

§ 155.08 SIGNS EXEMPT FROM REGULATION.

The following signs are exempt from the regulations of this chapter, except where such signs would be prohibited under § 155.10.

(A) Signs not visible from beyond the boundaries of the property on which they are located.

(B) Signs of a governmental body, including traffic warning or regulatory signs and devices. These signs shall also include other governmental signs including building identification, directional, information, and welcome signs.

(C) Trade names and graphics which are located on gas pumps, newspaper, and soft drink and similar vending devices.

(D) Flags or insignia of any governmental, non-profit, or business organization.

(E) Seasonal/holiday signs and decorations associated with a national or religious holiday.

(F) Warning of danger signs posted by utility or construction companies.

(G) Signs painted on or attached to licensed operational vehicles used in the normal day-to-day operations of the business indicating the name of the business, unless the primary use of the vehicle is for the display of signs.

(H) Signs required by law, statute, or ordinance.

(I) No trespassing, no loitering and similar private warning signs.

(J) Incidental signs.

(K) Commemorative signs.

(L) Special event signs and special event directional signs related to events sponsored by non-profit organizations. Signs must be removed within three days of the end of the event.

(M) Political signs. Signs must be removed within three days after the election.

(N) Construction site identification signs.

(O) Signs painted on or displayed in windows.
(Ord. passed 3-1-10)

§ 155.09 SIGNS EXEMPT FROM PERMIT REQUIREMENTS.

The following on premises signs shall not require a permit and shall not be counted as part of the allowable sign area. However, such signs shall conform to the requirements set forth below, as well as other applicable requirements of this chapter.

(A) *Private information signs.* Signs containing information to direct pedestrian or vehicular traffic or informing the public of private regulations shall be located on the premises for which directions or information are indicated. Such signs shall not exceed three square feet per face, two faces per sign, and shall not exceed three feet in height if freestanding or six feet in height if attached to the principal or an accessory structure. These signs may be directly or internally (indirectly) illuminated with lighting limited to the sign face. Lighting that casts shadows away from the sign shall not be permitted. Restaurants will be allowed one sandwich or attached type, menu sign not to exceed four square feet.

(B) *Copy changes and maintenance.* No permit is required for copy changes made to a changeable copy sign, menu board or marquee sign. No permit is required for maintenance carried out in accordance with the provisions in § 155.13 and where no structural changes are made. No permit is required for copy changes to an existing sign, made where the size, shape, or height of the sign is not altered, made more non-conforming, or otherwise modified.

(C) *Residential identification signs.* Signs which provide the name and/or address of an individual residence, either attached or free-standing, indirectly or non-illuminated, provided no sign shall exceed two square feet in size per sign face.

(D) *In any residential district.* One real estate sign, not exceeding four square feet per sign face area shall be permitted per street frontage. Real estate signs for property over three acres shall comply with the standards for business, commercial or industrial real estate signs.

(E) In any business, commercial or industrial district, a real estate sign shall be permitted on the premises for sale, rent or lease. Such sign shall be non-illuminated, not exceed 32 square feet in area per sign face and if free-standing, shall not exceed eight feet in height.

(F) *Temporary signs.* Signs related to special events including, but not limited to, special sales, grand openings, and going out of business. Such signs shall be located on the premises where the event occurs and shall be removed when the event concludes. Total square footage of such signs shall not exceed 50% of the allowed sign area for the property as indicated in § 155.11.

(G) *Off-premises directional signs.* Such signs shall not exceed two square feet in area and shall not be illuminated. Such signs shall not be placed in the public right-of-way and will consist of only the company name and a directional arrow. Permission must be obtained from the property owner before placement.
(Ord. passed 3-1-10)

§ 155.10 SIGNS PROHIBITED.

The following are prohibited within the jurisdiction of this chapter:

(A) Any non-governmental sign that resembles a public safety warning or traffic sign;

(B) Signs, whether temporary or permanent, within any public street or highway right-of-way or placed upon a utility pole, and unauthorized signs are forfeited to the public and are subject to confiscation, with the exception of:

(1) Governmental signage, including signs to identify public property convey public information, direct or regulate pedestrian or vehicle traffic;

(2) Informational signs of a public utility regarding its poles, lines, pipes, or facilities;

(3) Awning, projecting, and suspended signs over a public right of way so long as they do not interfere with function of the right of way and the comply with this chapter and the Unified Development Ordinance, as applicable; and

(4) Signs for community festivals or events permitted by the Town of Franklin;

(C) Flashing signs;

(D) Roof signs;

(E) Any sign or sign structure which does not conform to the building codes or creates in any way an unsafe distraction for motor vehicle operators. (See Flashing Signs definition), or obstructs the view of motor vehicle operators entering a public roadway;

(F) Abandoned signs, where the business or activity which the sign refers has ceased to operate or function or use the sign for 180 or more days;

(G) New off-premises advertising signs following the adoption of this chapter;

(H) Portable signs, except as provided for in §155.09(A) and § 155.11(B)(1) and (2); and

(I) Signs on fences except public-owned ball field advertising/sponsorship fence signs.
(Ord. passed 3-1-10)

§ 155.11 ON-PREMISES SIGNS.

The following on-premises signs are regulated by this chapter and require a permit.

(A) *Residential district.*

(1) Residential developments (subdivisions, one family dwellings and multiple family dwellings) and all permitted non-residential in the NMU and MICR zones shall be allowed one attached sign not to exceed 12 square feet in area and one freestanding sign per street frontage not to exceed 32 square feet in area and six feet in height. A freestanding sign shall have a setback of no less than eight feet from the street right-of-way or ten feet from the traveled portion of a street where the right-of-way does not exist or cannot be determined. Such signs may be illuminated.

(2) On plots containing permitted public utility buildings or home occupations or uses, other than accessory, one attached non-illuminated sign not exceeding six square feet in area unless otherwise regulated by the Unified Development or other ordinance provisions.

(B) *Commercial and industrial districts.*

(1) As this subsection is applied to multiple tenant developments, only one illuminated freestanding sign shall be permitted per street frontage. Second street frontage must be at least 100 feet long with a street entrance to be counted as a frontage. The sign shall not exceed 70 square feet in area, shall be a maximum of 18 feet in height, and shall be located no closer than eight feet to the street right-of-way or ten feet to the traveled portion of a street where the right-of-way does not exist or cannot be determined. In addition, each establishment in the development shall be permitted illuminated attached signage at the place of occupancy not to exceed one square foot for each one foot of linear building frontage up to 250 square feet maximum.

(a) In addition, each establishment may be issued a temporary banner permit, not to exceed 30 days, for a banner not exceeding 32 square feet; or

(b) Each establishment may be issued a temporary permit, not to exceed 30 days, for an illuminated portable sign not exceeding 32 square feet. Each establishment is limited to no more than two such temporary permits, as described in (a) or (b) above, during a calendar year.

(2) Any establishment not operating in a multiple tenant development shall be allowed one illuminated free-standing sign per street frontage. Second street frontage must be at least 100 feet long with a street entrance to be counted as a frontage. The sign not to exceed 50 square feet in area, shall be a maximum of 18 feet in height, and shall be located no closer than eight feet to the street right-of-way or ten feet to the traveled portion of a street where the right-of-way does not exist or cannot be determined. Illuminated attached signage shall also be allowed not to exceed one square foot for each linear foot of building frontage.

(a) In addition, each establishment may be issued a temporary banner permit, not to exceed 30 days, for a banner not exceeding 32 square feet; or

(b) Each establishment may be issued a temporary permit, not to exceed 30 days, for an illuminated portable sign not exceeding 32 square feet. Each establishment is limited to no more than two such temporary permits, as described in (a) or (b) above, during a calendar year.

(C) *Electronic changeable message signs.*

(1) Electronic changeable message signs (ECMS) shall be permitted on freestanding on premises business identification signs subject to the following limitations and requirements:

(a) The ECMS shall be part of the single-tenant freestanding business identification sign or be allowed in lieu thereof, but in no case shall the square footage of the ECMS exceed 50% of the total allowed sign face area for any such freestanding sign. In the case of multi-tenant signs the ECMS shall not exceed 50% of the total allowed sign face area for multi-tenant signs or 36 square feet, whichever is less;

(b) ECMS on freestanding signs shall be allowed in certain zoning districts subject to certain location and land use restrictions as follows: (All street designations are as defined in the Unified Development Chapter (UDO) in § 152.098(A) - Street Classification.)

1. In all commercial (C) districts, except C-l, but not allowed along frontages of streets smaller than Collector rated, opposite residential (R) districts.

2. In all industrial (I) districts, but not allowed along frontages of streets smaller than collector rated, opposite residential (R) districts.

3. In residential (R) districts for schools, museums, and churches/houses of worship, provided that the ECMS is located along the frontage of a arterial street having three or more lanes at the time of permitting.

(c) ECMS shall not be permitted on sites where existing freestanding signs are nonconforming unless such signs are made conforming to this chapter. ECMS is not permitted on off-premises advertising signs.

(2) In the downtown commercial (C-l) district, an ECMS is permitted for theaters, and other public event facilities (spectator sports facilities, civic and conference facilities), whether publically or privately owned; and the ECMS may be attached to the building or may be freestanding if at a location permitting a freestanding sign.

(3) In any commercial (C) district, industrial (I) district, or neighborhood mixed use (NMU) district, an ECMS, not exceeding six square feet may be permitted behind a street fronting window of any business where an ECMS is not used on a freestanding sign. In any commercial (C) district or industrial (I) district an ECMS may be used on the motor fuel pump canopy for up to 50% of the allowable signage for such structure, provided no ECMS is used on any freestanding sign and all other signage on the site conforms to this chapter.

(4) No ECMS message (copy and/or image) shall be allowed to flash, animate, scroll, or otherwise move, or transition from one message to another in a moving manner. Transition between messages shall be instantaneous. Each message shall be continuously displayed for a minimum of ten minutes before changing to another message.

(5) Each ECMS or other sign employing the use of light emitting diodes (LEDs) for display shall be equipped with a control system that automatically adjusts the light emission level to ambient light conditions so as to not cause glare or excessive brightness. In no case shall the light level of any such sign exceed 500 NITS (candelas per square meter) between the time of sunset and sunrise, and 5,000 NITS at other times (daytime). If ambient light levels, day or night, in the area of the sign are significantly lower and the sign still produces glare or is excessively bright at the levels listed above, the sign light levels will be further reduced to eliminate the glare or excessive brightness. Focused or directed light shall be aimed away from passing traffic and residential occupancies.

(6) Any EMCS within or opposite a residential (R) district as described above shall be operated or lit only between the hours of 7:00 a.m. and 10:00 p.m.
(Ord. passed 3-1-10)

§ 155.12 OFF-PREMISES SIGNS.

No new off-premises advertising signs shall be allowed within the corporate limits or the extraterritorial jurisdiction (ETJ) of the town.
(Ord. passed 3-1-10)

§ 155.13 SIGN MAINTENANCE.

(A) *Maintenance provisions.* All signs, supports, braces, poles, wires and other appurtenances of signs or sign structures shall be kept in good repair, maintained in safe condition, and shall conform to the following standards:

(1) A sign shall be in a state of disrepair when more than 20% of its total surface area is covered with disfigured, cracked, ripped or peeling paint or poster paper, or any combination of these conditions. Any sign in a state of disrepair shall be considered in violation of this chapter;

(2) No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages, or struts that cause the sign to stand more than 15 degrees from the perpendicular;

(3) No sign or sign structure shall be allowed to have weeds, vines, or other vegetation growing on it and obscuring it from the street or highway from which it is intended to be viewed;

(4) No illuminated sign shall be allowed to stand with only partial illumination operational;

(5) If illuminated, signs shall be illuminated only by the following means:

(a) By steady stationary light of reasonable intensity, shielded and directed solely at the sign;

(b) External light sources to illuminate signs shall be shielded from all adjacent residential buildings and streets and shall not be of such brightness so as to cause glare hazardous to pedestrians or vehicle drivers or so as to create a nuisance; or

(c) Electrical requirements pertaining to signs shall be as prescribed in local codes; and

(6) Any sign which violates the maintenance provisions listed above shall be in violation of this chapter and shall be repaired or removed as required by the applicable sections of this chapter.

(B) *Unlawful cutting of trees or shrubs.* No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy or remove any trees, shrubs or other vegetation located within a public right-of-way of any road or highway, except as required by the North Carolina Department of Transportation.
(Ord. passed 3-1-10) Penalty, see § 10.99

§ 155.14 NON-COMMERCIAL MESSAGES.

Not withstanding any other provisions of this chapter, any sign display or device allowed under this chapter may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit, or to a commodity or service for sale, and that complies with size, lighting, height and other requirements of the district in which it is located.

§ 155.15 PERMITS, FEES, NON-CONFORMING SIGNS, AND ENFORCEMENT.

(A) *Permits.* All new signs, except as otherwise provided in § 155.09, shall require a sign permit prior to being located or erected on any property within the jurisdiction of this chapter. A sketch of the proposed sign to scale, along with a general sketch of the proposed placement of the sign in the parcel shall accompany the application for a permit. Sign permits shall be issued by the Land Use Administrator. If a sign permit is denied, the decision may be appealed to the Board of Adjustment as provided in this chapter, specifically as indicated in §152.075 through §152.078.

(B) *Permit fees.* The Board of Aldermen may establish a fee schedule by resolution for all sign permits issued in accordance with this chapter.

(C) *Nonconforming signs.*

(1) Signs that are erected and were in place prior to the adoption of this chapter but which do not conform to the provisions of this chapter are declared nonconforming signs. Signs that were erected and that are in place and which conformed to the provisions of this chapter at the time erected, but which do not conform to an amendment of this chapter enacted subsequent to the erection of the signs also are declared nonconforming signs. Any sign erected after the passage of this chapter must meet all the criteria within this chapter.

(a) All nonconforming signs erected and located within the town's jurisdiction at the time of the adoption of the sign ordinance on May 3, 2004 must be made conforming or removed within five years of the adoption of this chapter.

(b) All signs made nonconforming by the adoption of this chapter must be made conforming or removed within 12 years of the adoption of this chapter.

(2) All nonconforming signs shall be maintained in accordance with § 155.13 but shall not be:

(a) Moved, changed, replaced, reestablished, or relocated except in conformance with the provisions of this chapter, provided that copy may be changed on an existing sign;

(b) Expanded; or

(c) Modified in any way which increases the sign's degree of nonconformity.

(3) Existing off-premises nonconforming billboards cannot be modified to include digital or other electrically or electronically controlled signage in accordance with § 155.11(C)(1)(c).

(D) *Enforcement.* Violation of the provisions of these sign regulations shall be enforceable as set forth below in addition to the enforcement provisions as set forth in this chapter.

(1) *Notice of violation.* The Land Use Administrator shall have the authority to issue a notice of violation for all violations of the sign ordinance. Where the owner of the sign is indicated on the sign or is otherwise apparent or known to the Land Use Administrator, a copy of the notice of violation shall be delivered to the sign owner by hand delivery or by certified mail. In all other cases, a copy of the notice of violation shall be posted on the sign and a copy shall be delivered by hand delivery or certified mail to the property owner as shown on the Macon County tax records. In addition, service hereunder may be made in accordance with Rule 4 of the North Carolina Rules of Civil Procedure.

(2) *Time to remedy violation.* The sign owner and/or the property owner shall have 30 days to remedy all violations set forth in the notice of violation. The 30-day period shall commence upon the earlier of the posting of the notice of violation on the sign or the delivery of a copy of the notice of violation to the sign owner or property owner.

(3) *Extension of time for compliance.* The Land Use Administrator shall have the authority to grant a single 30-day extension of time within which the sign owner must comply with the notice of violation. The single extension of time may be issued based upon a written request for extension of time, which sets forth valid reasons for not complying within the original 30-day period.

(4) Remedies for failure to comply. Pursuant to G.S. § 160A-175(f), the Land Use Administrator may choose from the remedies set forth below to enforce the ordinance when there is a failure to comply with the notice of violation. Those remedies are as follows:

(a) In addition to or in lieu of the other remedies set forth in this section, the Land Use Administrator may issue a citation setting forth a civil penalty of $50. In the case of a continuing violation, each 24-hour period during which the violation continues to exist shall constitute a separate violation. The citation shall be served upon the person(s) described in division (A) of this section by the means set forth therein. In the event the offender does not pay the penalty within ten days of service of the citation, the civil penalty shall be collected by the town in a civil action in the nature of debt, which shall not constitute a misdemeanor, and in so providing, the Town Board of Aldermen hereby chooses to exercise the option provided by G.S. § 160A- 175(b);

(b) In addition to or in lieu of the other remedies set forth in the section, the Land Use Administrator shall have the authority to issue a remove order for any sign not repaired or brought into compliance within the time required by the foregoing provisions. Remove orders shall be issued to and served upon the person(s) described in division (D)(4)(a) of this section by the means set forth therein. The sign owner or the landowner shall be allowed a period of 30 days after the service of the remove order within which to remove the sign at his or her own expense. The remove order shall describe specifically the location of the sign to be removed and all of the reasons for issuance of the remove order, including specific reference to the provisions of the code that have been violated; and

(c) In addition to or in lieu of the other remedies set forth in this section, the Land Use Administrator may seek injunctive relief in the appropriate court.

(5) *Removal and recovery expense.* If a sign owner or property owner fails to comply with the requirements of a remove order, the Land Use Administrator may cause such sign to be removed. The sign owner and property owner shall be jointly and severally liable for the expense of removal. Notice of the cost of removal shall be served upon the person(s) described in division (D)(4)(a) by the means set forth therein. If the sum is not paid within 30 days thereafter, the sum shall be collected by the town in a civil action in the nature of debt, which shall not subject the offender to the penalty provisions of G.S. § 14.4.

(6) *Removal of dangerous signs.* Pursuant to G.S. § 160A-193, the Land Use Administrator shall have the authority to summarily remove, abate, or remedy a sign, which is dangerous or prejudicial to the public health or safety. The expense of the action shall be paid by the sign owner, or if the sign owner cannot be determined, by the land owner, and if not paid, shall be a lien upon the land or premises where the nuisance arose, and shall be collected as unpaid taxes.
(Ord. passed 3-1-10)

CHAPTER 156: SEXUALLY ORIENTED BUSINESSES

Section

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§ 156.01 PURPOSE; EXEMPTIONS.

(A) The Board of Aldermen is committed to protecting the general welfare of the town through the enforcement of laws prohibiting obscenity, indecency and sexual offenses. It seeks to reduce and eliminate the deleterious effects of sexually oriented businesses while preserving constitutionally protected forms of expression.

(B) The Town Board finds that sexually oriented businesses in certain locations contribute to neighborhood deterioration and blight through an increase in crime and diminution of property values, among other adverse consequences, and finds that such effects are contrary to the general welfare of the town.

(C) The Town Board recognizes that important and substantial government interests provide a constitutional basis for reasonable regulation of the time, place and manner under which sexually oriented businesses operate; and that, therefore, the town has determined that persons seeking to operate sexually oriented businesses shall be required to observe specific locational requirements before they commence business, as provided for in this chapter.

(D) The Town Board finds that the licensing of sexually oriented businesses is necessary to ensure compliance with the locational and zoning requirements of such businesses.

(E) The Town Board finds that sexually oriented businesses in other communities have been used for unlawful sexual activities, including prostitution, and sexual encounters of a casual nature. The concern over sexually transmitted diseases is a legitimate health concern of the town.

(F) The provisions of this chapter shall not be construed as permitting any use, activity or structure that is otherwise prohibited, illegal or made punishable by law, nor shall it be construed so as to prohibit conduct or expression that is subject to constitutional protection.
(Ord. passed 4-4-05) Penalty, see § 156.99

§ 156.02 DEFINITIONS.

ADULT ARCADE (also known as ***PEEP SHOW***). Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically-controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe "specified sexual activities" or "specified anatomical areas."

ADULT BOOKSTORE or ***ADULT VIDEO STORE.*** A commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas"; or

(2) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

ADULT CABARET. A nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits, or displays as one of its principal business purposes:

(1) Person who appear nude or semi-nude; or

(2) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

(3) Films, motion pictures, video-cassettes, slides or other photographic reproductions which depict or describe "specified sexual activities" or "specified anatomical areas."

ADULT MOTEL. A hotel, motel or similar commercial establishment that:

(1) Offers accommodations to the public for any form of consideration, provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that depict or describe "specified sexual activities" or "specified anatomical areas" as one of its principal business purposes;

(2) Offers a sleeping room for rent for a period of time that is less than ten hours; or

(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of less than ten hours.

ADULT MOTION PICTURE THEATER. A commercial establishment where, for any form of consideration films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown as one of its principal business purposes that depict or describe "specified sexual activities" or "specified anatomical areas."

ADULT THEATER. A theater, concert hall, auditorium, or similar commercial establishment which regularly features, exhibits or displays, as one of its principal business purposes, persons who appear in a state of nudity or semi-nude, or live performances that expose or depict "specified anatomical areas" or "specified sexual activities."

APPLICANT. The person who will operate the sexually oriented business, and shall include each of the following persons associated with that business:

(1) The owner of a sole proprietorship;

(2) Each member of a firm, association or general partnership;

(3) Each general partner in a limited partnership;

(4) Each officer, director and owner of more than 10% of the stock of a corporation;

(5) The manager of an establishment operated by a corporation; and

(6) Any manager who has been empowered as attorney-in-fact for a nonresident individual or partnership.

EMPLOY, EMPLOYEE and ***EMPLOYMENT.*** Describe and pertain to any person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

ESCORT. A person who, for tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY. A person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its principal business purposes, for a fee, tip, or other consideration.

ESTABLISHMENT. Includes any of the following:

(1) The opening or commencement of any sexually oriented business as a new business;

(2) The conversion of any existing business, whether or not a sexually oriented business, to any sexually oriented business;

(3) The addition of any sexually oriented business to any other existing sexually oriented business; or

(4) The relocation of any sexually oriented business.

LICENSEE. Person(s) in whose name a license to operate a sexually oriented business has been issued.

NUDE MODEL STUDIO. Any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. ***NUDE MODEL STUDIO*** shall not include a proprietary school or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or in a structure:

(1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing;

(2) Where in order to participate in a class a student must enroll at least three days in advance of the class; and

(3) Where no more than one nude or semi-nude is on the premises at any one time.

OPERATES or ***CAUSES TO BE OPERATED.*** To cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

NUDITY or a ***STATE OF NUDITY.***

(1) The appearance of a human anus, male genitals, or female genitals; or

(2) A state of dress which fails to opaquely cover a human anus, male genitals or female genitals.

PERSON. An individual, proprietorship, partnership, corporation, association or other legal entity.

SEMI-NUDE. A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER CENTER. A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration physical contact in form of wrestling or tumbling between persons of the opposite sex, or activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

SEXUALLY ORIENTED BUSINESS. An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, or any combination of the foregoing.

SPECIFIED ANATOMICAL AREAS. Human genitals in a state of sexual arousal.

SPECIFIED SEXUAL ACTIVITIES. Includes any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(3) Masturbation, actual or simulated; or

(4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) above.

TRANSFER OF OWNERSHIP OR CONTROL. For a sexually oriented business means and includes any of the following:

(1) The sale, lease or sublease of the business.

(2) Persons other than those named as applicants for a license becoming associated with the business, as provided in the definition of "applicant"; except that a mere substitution of a person as manager of an establishment shall only require filing with the town planner as provided for in § 156.07.

(3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.
(Ord. passed 4-4-05)

§ 156.03 CLASSIFICATION.

Sexually oriented businesses are classified as follows:

(A) Adult arcades.

(B) Adult bookstores or adult video stores.

(C) Adult cabarets.

(D) Adult motels.

(E) Adult motion picture theaters.

(F) Adult theaters.

(G) Escort agencies.

(H) Nude model studios.

(I) Sexual encounter centers.
(Ord. passed 4-4-05)

§ 156.04 LICENSE REQUIRED.

(A) It is unlawful for any person to operate a sexually oriented business without a valid sexually oriented business privilege license issued by the town planner pursuant to this chapter.

(B) An application for a license must be made on a form prescribed by the Town Planner. An application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises.

(C) The applicant may request and the applicant shall provide such information as to enable the Town Planner to determine whether each applicant meets the qualifications established in this chapter.

(D) Each applicant must be qualified under § 156.04 and each applicant shall be considered a licensee if a license is granted.

(E) Each applicant must request and receive a special use permit when required by the local zoning ordinance.
(Ord. passed 4-4-05) Penalty, see § 156.99

§ 156.05 ISSUANCE OF LICENSE.

(A) Within 30 days after receipt of a completed application, the Town Planner will approve or deny the issuance of a license to an applicant for a sexually oriented business license. The Town Planner will approve the issuance of a license to an applicant unless the Police Department finds one or more of the following to be true:

(1) The applicant is under 18 years of age.

(2) The license fee required by this section has not been paid.

(3) An applicant or an applicant's spouse is overdue in payment to the town of taxes, fees, fines or penalties assessed against or imposed upon the applicant or the applicant's spouse in relation to a sexually oriented business.

(4) An applicant has failed to provide information required in order to determine the qualifications of the applicant under this chapter for issuance of the license, or has falsely answered a question or request for information on the application form.

(5) An applicant or the proposed establishment is in violation of or is not in compliance with this chapter or other provisions of this code, including local zoning requirements.

(6) An applicant or an applicant's spouse has been convicted of a violation of a provision of this chapter, other than the offense of operating a sexually oriented business without a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.

(7) The Chief of Police shall make a recommendation to the Town Planner based on a check of any state, federal and/or local repository for criminal history to determine if an applicant and/or an applicant's spouse has been convicted of a crime involving any offense described in G.S. Chapter 14 (Articles 7A, 26, 26A, 27, 37 or 39); or any similar offenses to those described above under the criminal or penal code of the state, other states, the town, or other towns, cities, or other countries; or facilitation, attempt, conspiracy or solicitation to commit any of the foregoing offenses; for which:

(a) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, of the conviction is of a misdemeanor offense;

(b) Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(c) Less than five years have elapsed since the date of the last conviction or the date of release from confinement of the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses within any 24-month period.

(d) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.

(e) An applicant who has been convicted or whose spouse has been convicted of an offense listed above may qualify for a sexually oriented business license only when the period required by this chapter has lapsed.

(f) The applicant has failed to make application using a legal name or has filed to produce a valid state driver's license or a valid state identification card.

(B) The license, if granted, shall state on its face the legal name of the person or persons to whom it is granted, the classification of the sexually oriented business for which it is granted, the expiration date, and the address of the sexually oriented business. Licenses shall be posted in a conspicuous place at or near the entrance to a sexually oriented business so that they may be easily read at any time.
(Ord. passed 4-4-05) Penalty, see § 156.99

§ 156.06 APPEAL.

An applicant whose application is denied, suspended or revoked by the Town Planner may appeal such action in writing within 30 days to the Board of Aldermen, who shall decide either to uphold the action or to issue the license not later than the second regular Town Board meeting after receipt of the appeal. The applicant or licensee shall have the right to present evidence before the Town Board. The decision to uphold the action of the Town Planner or to issue the license shall be based solely on the criteria established in this chapter for the action by the Town Planner. A suspension or revocation shall be stayed during the pendency of an appeal to the Town Board.
(Ord. passed 4-4-05) Penalty, see § 156.99

§ 156.07 FEES.

(A) Every sexually oriented business that is granted a license (new or renewal) shall pay to the town an annual nonrefundable privilege license fee of $1,000 upon license issuance or renewal.

(B) A substitution of a manager of the business which occurs during the license year shall be filed with the Town Planner within 30 days of its occurrence, and a $100 investigation fee paid.

(C) All license applications and fees shall be submitted to the Town Planner.
(Ord. passed 4-4-05) Penalty, see § 156.99

§ 156.08 LOCATION.

(A) *Overconcentration.* No more than one sexually oriented business shall be located within any

1,000 foot radius, as determined by a straight line and not street distance. Sexually oriented businesses, because of their very nature, are recognized as having serious objectionable operational characteristics upon adjacent neighborhoods, particularly when they are concentrated. Special regulation of these establishments is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. To prevent an overconcentration of sexually oriented businesses and the creation of a de facto downgrading or blighting of surrounding neighborhoods, this radius requirement is necessary.

(B) *Prohibited.* No sexually oriented business shall be located in a residential district nor a neighborhood mixed used district as defined by the town's zoning ordinance and zoning map.

(C) *Residential proximity.* No sexually oriented business shall be located within a 1,000 foot radius (determined by a straight line and not street distance) of any place of worship, school (public or private), specialty school, day-care facility or any residential zoning districts or residential properties. Sexually oriented businesses, because of their very nature, are recognized as having serious objectionable operational characteristics, primarily when they are located near a residential zoning district or certain other districts which permit residential uses. Special regulation of these establishments is necessary to insure that these adverse effects will not contribute to a downgrading or blighting of surrounding residential districts or certain other districts which permit residential uses.
(Ord. passed 4-4-05) Penalty, see § 156.99

§ 156.09 HOURS OF OPERATION.

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 a.m. and 6:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and 10:00 a.m. on Sundays, except to the extent allowed by state law and regulations pertaining to the sale of alcoholic beverages by the business if the sexually oriented business has a state ABC permit.
(Ord. passed 4-4-05) Penalty, see § 156.99

§ 156.10 INSPECTION.

(A) A business license applicant or licensee shall permit representatives of the police department or any other town, city, county, state or federal department, division or agency that enforces codes, regulations of statutes relating to human health, safety or welfare or structural safety to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law at any time it is occupied or open for business.

(B) The provisions of this chapter do not apply to areas of an adult motel which are currently being rented by the customer for use as a permanent or temporary habitation.
(Ord. passed 4-4-05) Penalty, see § 156.99

§ 156.11 EXPIRATION OF LICENSE.

All licenses shall expire one year from the date of issuance and may be renewed only by making application as provided in this chapter. Application for renewal should be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the license will not be affected.
(Ord. passed 4-4-05) Penalty, see § 156.99

§ 156.12 SUSPENSION.

The Town Planner is authorized to, and will, suspend a sexually oriented business license for a period not to exceed 30 days if the police department and/or inspections department determines that a business licensee has:

(A) Violated or is not in compliance with this chapter or with any other requirements of this code, including those relating to buildings, electricity, plumbing, fire safety and mechanical equipment;

(B) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter;

(C) Permitted illegal gambling by any person on the sexually oriented business premises; or

(D) Demonstrated an inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner thus necessitating action by law enforcement officers.
(Ord. passed 4-4-05) Penalty, see § 156.99

§ 156.13 REVOCATION.

(A) The Town Planner is authorized to, and will, revoke a license if a cause for suspension in § 156.12 occurs and the license has been suspended within the preceding 12 months.

(B) The Town Planner is authorized to, and will, revoke a sexually oriented business license if the police department determines that a business licensee;

(1) Gave false or misleading information in the material submitted to the town during the application process, including, but not limited to, the use of a name other than a legal name to procure a license;

(2) Has allowed the possession, use or sale of controlled substances on the premises; or

(3) Has allowed prostitution on the premises;

(4) Has operated or worked in the sexually oriented business during a period of time when the licensee's license was suspended;

(5) Has been convicted of an offense named in § 156.04 for which the time period required has not lapsed;

(6) On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime named in § 156.99 for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed;

(7) Has allowed any act of sexual intercourse, masturbation, oral copulation or sodomy to occur in or on the licensed premises;

(8) Is delinquent in payment to the town of ad valorem taxes, sales taxes, or the annual business license fee, or any other fee or tax related to the sexually oriented business or other business of the licensee.

(9) The fact that a conviction is being appealed shall have no effect on the revocation of the license.

(C) When the Town Planner revokes a license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective. If, subsequent to revocation, the Town Planner finds that the basis for the revocation has been corrected or abated, the licensee may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked, an applicant may not be granted another license until the appropriate number of years required under this chapter have elapsed.
(Ord. passed 4-4-05) Penalty, see § 156.99

§ 156.14 DENIAL.

If the Town Planner denies the issuance of a license, or suspends or revokes a license, or denies an appeal, the town will send to the applicant, or licensee, by certified mail, return receipt requested, written notice of the action.
(Ord. passed 4-4-05) Penalty, see § 156.99

§ 156.99 PENALTY.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor, and, upon conviction, shall be subject to a fine of $500, or imprisonment, or both.
(Ord. passed 4-4-05)

TABLE OF SPECIAL ORDINANCES

Table

I. ANNEXATIONS

II. FRANCHISES

TABLE I: ANNEXATIONS

Ord. No.	*Date Passed*	*Description*
1	9-5-78	Annexing land beginning at the intersection of the Franklin Town Limit Boundary Line with the north margin of Circle Drive, on or near the west boundary of Lot No. 11 of the Ethel Hurst's Addition to the City of Franklin, N.C., a plat of which is recorded in the Office of Register of Deeds for Macon County, North Carolina in Plat Book 1, at page 158, to which can be referred for a more complete and accurate description.
2	3-2-81	Annexing 22.04 acres of land in Franklin Township, and being part of what is known as Fox Ridge Subdivision.
3	5-5-86	Annexing 28.70 acres of land in the East Main Street area.
4	11-3-86	Annexing 4.13 acres of land with the beginning corner being the beginning corner of the land described in the deed from Billy J. Tallent and wife to John C. Trout, dated September 5, 1986, and recorded in the Office of Register of Deeds for Macon County, North Carolina in Deed Book Z-16 at page 185.
5	6-20-88	Annexing land beginning at a right-of-way monument located on the southerly right-of-way of U.S. 64 (Franklin By-Pass) at the northeastern corner of the property described herein and bounded on the east by land now or formerly owned by E.W. Fisher.
6	8-1-88	Annexing the following tracts of land: (1) Annexing 6.665 acres as shown on a plat entitled A New Retail Facility, Horne Properties, Inc., Franklin Township, Macon County, North Carolina, as prepared by G.L. Sprinkle, Registered Land Surveyor, L-1454, under date of October 22, 1987, and revised November 27, 1987. (2) Annexing 18.364 acres as shown on a plat entitled A New Retail Facility, Horne Properties, Inc., Franklin, Township, Macon County, North Carolina, as prepared by G.L. Sprinkle, Registered Land Surveyor, L-1454 under date of October 22, 1987, and revised November 27, 1987. This tract is subject to an access easement as shown on the aforementioned plat.

Ord. No.	*Date Passed*		*Description*
6	8-1-88 (Cont'd)	(3)	Annexing 5.007 acres as shown on a plat entitled A New Retail Facility, Horne Properties, Inc., Franklin Township, Macon County, North Carolina, as prepared by G.L. Sprinkle, Registered Land Surveyor, L-1454, under date of October 22, 1987, and revised November 27, 1987.
		(4)	Annexing .725 acre as shown on a plat entitled A New Retail Facility, Horne Properties, Inc., Franklin Township, Macon County, North Carolina, as prepared by G.L. Sprinkle, Registered Land Surveyor, L-1454, under date of October 22, 1987, and revised November 27, 1987.
		(5)	Annexing 2.359 acres as shown on a plat entitled A New Retail Facility, Horne Properties, Inc., Franklin Township, Macon County, North Carolina, as prepared by G.L. Sprinkle, Registered Land Surveyor, L-1454, under date of October 22, 1987, and revised November 27, 1987.
		(6)	Annexing .820 acre as shown on a plat entitled A New Retail Facility, Horne Properties, Inc., Franklin Township, Macon County, North Carolina, as prepared by G.L. Sprinkle, Registered Land Surveyor, L-1454, under date of October, 22, 1987.
		(7)	Annexing .724 acre as shown on a plat entitled A New Retail Facility, Horne Properties, Inc., Franklin Township, Macon County, North Carolina, as prepared by G.L. Sprinkle, Registered Land Surveyor, L-1454, under date of October 22, 1987, and revised November 27, 1987.
		(8)	Annexing .573 acre as shown on a plat entitled A New Retail Facility, Horne Properties, Inc., Franklin Township, Macon County, North Carolina, as prepared by G.L. Sprinkle, Registered Land Surveyor, L-1454, under date of October 22, 1987, and revised November 27, 1987.
		(9)	Annexing .766 acre as shown on a plat entitled A New Retail Facility, Horne Properties, Inc., Franklin Township, Macon County, North Carolina, as prepared by G.L. Sprinkle, Registered Land Surveyor, L-1454, under date of October 22, 1987, and revised November 27, 1987.

Ord. No.	*Date Passed*	*Description*
6	8-1-88 (Cont'd)	(10) Annexing land beginning on an existing iron pipe, the fourth corner of the tract of land described in a deed from John M. Corey and wife, Kathleen L. Corey; William M. Corey and wife, Brenda Corey; and James S. Bickel and wife, Patricia Bickel to Horne Properties, Inc.
6	8-1-88	Annexing the following tracts of land: (1) Annexing 8.635 acres and being shown on plat prepared by James T. Herron, R.L.S., dated November 9, 1973, and entitled "Duncan and Watkins." (2) Annexing 2.087 acres and being shown on the plat prepared by James T. Herron, R.L.S., dated November 9, 1973, and entitled "Duncan and Watkins." (3) Annexing .062 of an acre as per survey and plat of James T. Herron, R.L.S., bearing date of December 9, 1973, entitled "Franklin Plaza."
8	9-5-89	Annexing 38 acres, as shown on the plat thereof prepared from a survey by Benjamin A. West, Registered Land Surveyor, dated August 3, 1987, revised August 3, 1989.
—	4-8-91	Annexing noncontiguous territory being Section Two of Brookwood Heights.
—	4-6-92	Annexing noncontiguous territory beginning at a point on the end of a culvert at a branch which runs under N.C. State Highway No. 28, said point of beginning being the second corner in the deed from E.L. Whittington and wife, Hettie Whittington to Herman Houston and wife, Bonnie Houston, dated July 19, 1946, and recorded in the County Office of the Register of Deeds in Deed Book R-5, Page 26.
—	11-2-92	Annexing noncontiguous territory being all of the property as described in a deed dated August 25, 1976 from Cecil Wayne Cole and wife, Mildred T. Cole, to Eric A. McDonnell and wife, Ruth H. McDonnell, as recorded in the County Office of the Register of Deeds, in Deed Book E-11, Page 110.
—	5-2-94	Annexing noncontiguous territory, recorded in the office of the Register of Deeds for Macon County, in Book 1 at Page 53, on 9-13-94.
—	3-6-95	Annexing noncontiguous territory.
—	5-1-95	Annexing noncontiguous territory.
—	5-1-95	Annexing noncontiguous territory.

Ord. No.	*Date Passed*	*Description*
—	5-1-95	Annexing real property described in the deed dated August 3, 1994, from Howard Guest and wife, Henrietta Guest, to Edward L. Sibilsky, Jr., and wife, Marjorie K. Sibilsky, and Richard K. Beauchemin, Jr., and wife, Sandra M. Beauchemin, recorded in Book N-20 at Pages 1344-1346, Macon County Public Registry. Recorded in the office of the Register of Deeds for Macon County, in Book X-20 at Pages 435-437, on 6-13-95.
—	6-5-95	Annexing Study Area 2.
—	8-5-96	Annexing two tracts of land recorded in the office of the Register of Deeds for Macon County, in Book Q-21 at Pages 810-812, on 10-24-96.
—	3-3-97	Annexing tract of land recorded in the office of the Register of Deeds for Macon County, in Book V-21 at Pages 2191-2192, on 3-18-97.
—	2-2-98	Annexing a portion of the property as described in the deed dated April 1989, from Bob Gillespie and wife, Sue Gillespie, to Richard Gillespie. Recorded in the office of the Register of Deeds for Macon County, in Book L-22 at Pages 1520-1521, on 3-3-98.
—	4-6-98	Annexing noncontiguous territory recorded in the office of the Register of Deeds for Macon County, Book O-22 at Pages 939-941, on 5-5-98.
NC Session Law 1998-51	7-22-98	An Act to Add Certain Described Property to the Corporate Limits of the Town of Franklin.
—	6-7-99	Extending the town's corporate limits to include the Baird Cove Road Annexation Study Area.
—	8-2-99	Annexing tract of land recorded in the office of the Register of Deeds for Macon County, in Book O-23 at Pages 191-192, on 9-28-99.
—	9-7-99	Annexing noncontiguous territory recorded in the office of the Register of Deeds for Macon County, in Book O-23 at Pages 193-196, on 9-28-99.
—	9-7-99	Annexing noncontiguous territory recorded in the office of the Register of Deeds for Macon County, in Book O-23 at Pages 197-199, on 9-28-99.
27	11-1-99	Annexing noncontiguous territory recorded in the office of the Register of Deeds for Macon County, in Book Y-23 at Pages 985-986, on 5-4-00.
—	4-3-00	Annexing noncontiguous territory recorded in the office of the Register of Deeds for Macon County, in Book Z-23 at Pages 439-442, on 5-22-00.

Ord. No.	*Date Passed*	*Description*
—	9-5-00	Annexing noncontiguous territory recorded in the office of the Register of Deeds for Macon County, in Book G-24 at Pages 1194-1196, on 10-30-00.
—	12-4-00	Annexing noncontiguous territory recorded in the office of the Register of Deeds for Macon County, in Book K-24 at Pages 1805-1807, on 1-23-01.
—	12-4-00	Annexing noncontiguous territory recorded in the office of the Register of Deeds for Macon County, in Book K-24 at Pages 1808-1809, on 1-23-01.
—	6-11-01	Annexing noncontiguous territory.
—	6-11-01	Annexing noncontiguous territory recorded in the office of the Register of Deeds for Macon County, in Book Z-24 at Pages 222-224, on 8-23-01.
—	12-3-01	Annexing noncontiguous territory recorded in the office of the Register of Deeds for Macon County, in Book J-25 at Pages 960-961, on 1-17-02.
—	2-3-03	Annexing noncontiguous territory recorded in the office of the Register of Deeds for Macon County, in Book Q-26 at Pages 799-801, on 3-21-03.
—	8-4-03	Annexing noncontiguous territory recorded in the office of the Register of Deeds for Macon County, in Book H-27 at Pages 891-893, on 9-4-03.
—	11-4-03	Annexing noncontiguous territory recorded in the office of the Register of Deeds for Macon County, in Book B-28 at Pages 1347-1352, on 5-11-04.
—	10-3-05	Annexing a noncontiguous territory recorded in the office of the Register of Deeds for Macon County, in Book H-30 at Pages 1986-1989, on 5-19-06.
—	10-3-05	Annexing a noncontiguous territory recorded in the office of the Register of Deeds for Macon County, in Book H-30 at Pages 1990-1992, on 5-19-06.
—	1-2-06	Annexing a noncontiguous territory recorded in the office of the Register of Deeds for Macon County, in Book D-30 at Pages 736-738, on 3-27-06.
—	1-2-06	Annexing a noncontiguous territory recorded in the office of the Register of Deeds for Macon County, in Book D-30 at Pages 739-740, on 3-27-06.
—	2-5-07	Annexing a noncontiguous territory recorded in the office of the Register of Deeds for Macon County, in Book G-31 at Pages 775-777, on 4-11-07.
—	4-2-07	Annexing a noncontiguous territory recorded in the office of the Register of Deeds for Macon County, in Book S-31 at Pages 892-894, on 9-20-07.

Ord. No.	*Date Passed*	*Description*
—	3-2-09	Annexing a portion of the lands and premises described in a deed to Gary D. and Edith English Holland, the deed being dated August 18, 2006, and recorded in Deed Book R-30, page 691, Macon County Registry.
—	6-7-10	Annexing a noncontiguous territory recorded in the Office of the Register of Deeds for Macon County, in Book F-29, at Pages 339-341 on 5-26-05.
—	6-7-10	Annexing a noncontiguous territory recorded in the Office of the Register of Deeds for Macon County, in Book U-20, at Pages 525-527 on 3-6-95.

TABLE II: FRANCHISES

Ord. No.	*Date Passed*	*Description*
—	10-1-79	Granting a franchise to R & G Communications, Inc. to operate and maintain a community antenna television system (CATV System) in the Town of Franklin.
—	10-4-93	Granting a franchise to Nantahala Power and Light Company, to construct and maintain its lines for the transmission and distribution of electricity along, over and under the highways of the town, and to conduct and carry on within the town the business authorized by and under the terms of the charter of the Nantahala Power and Light Company.
—	5-4-98	Granting a gas franchise to the City of Toccoa, Georgia, for thirty years.
—	10-4-99	Extending the expiration date for cable television franchise agreement with Mediacom Southeast LLC until 4-1-00.
—	4-3-00	Cable television agreement with Mediacom Southeast LLC for fifteen years.
Resolution	3-5-01	Approving solid waste franchise granted to J & B Disposal for ten years.

PARALLEL REFERENCES

References to North Carolina General Statutes
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REFERENCES TO NORTH CAROLINA GENERAL STATUTES

G.S. Section	*Code Section*
1A-1, Rule 38(b)	151.08
Ch. 14, Art. 7A	156.05
Ch. 14, Art. 26	156.05
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Ch. 14, Art. 27	156.05
Ch. 14, Art. 37	156.05
Ch. 14, Art. 39	156.05
14-4	Charter, § 44, 34.99, 91.99, 94.21, 95.99, 152.136, 155.15
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14-288.12	34.03
15-27.2	152.195
18B-101	130.01
19A-20 et seq.	152.123
20-141	71.08
20-157	33.24
47-30	152.052
105-164.3	70.01
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105-187.1(3)	35.01
105-187.1(4)	35.01
105-349	35.01
105-350	Charter, § 20
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113A-57	152.052
130A-184 et seq.	91.15
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136-66.2	152.102
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Ch. 143, Art. 33C	30.02
143-213(18)	51.002
143-215.1	51.002, 51.040
143-215.1(b)	51.040
143-215.3(a)(14)	51.002
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143-215.6B(h)	51.092
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159-28	31.02
160A	95.45
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Ch. 160A, Art. 21	152.002
160A-11	Charter, § 1

G.S. Section	*Code Section*
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160A-63	Charter, § 7
160A-64	Charter, § 43
160A-69	Charter, § 8, 31.01
160A-70	Charter, § 7
160A-71	Charter, § 9, 30.02
160A-77	30.23
160A-78	30.23
160A-79	30.22
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160A-171	Charter, § 19, 31.02
160A-174	Charter, § 10
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