

Randolph County Health Department

ASHEBORO, NORTH CAROLINA 27205-7368

Ira McDowell Governmental Center

2222-B South Fayetteville Street



Telephone (336) 318-6200

Fax (336) 318-6234

AGREEMENT BETWEEN THE TOWN OF FRANKLINVILLE AND RANDOLPH COUNTY HEALTH DEPARTMENT

This Agreement, entered into on, January 13, 2009 by and between the TOWN OF FRANKLINVILLE and RANDOLPH COUNTY HEALTH DEPARTMENT shall commence on February 1st, 2009 and continue until June 30, 2009 or until being amended in writing or terminated with thirty days notice by either of the parties. This agreement shall be for the purpose of providing animal control services.

Randolph County Health Department agrees to:

1. Provide animal control services as outlined by the Ordinance to Control Animal in Randolph County and North Carolina General Statutes.
2. Request payment from the Town of Franklinville quarterly for services provided.

The Town of Franklinville agrees to:

1. Adopt the Ordinance to Control Animals in Randolph County.
2. Pay a total of \$1,380.70 for costs associated with animal control field operations (broken into quarterly payments payable upon receipt). With the first payment being prorated.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first shown above.

AC Hurley
Town of Franklinville

9 February 2009
DATE

Mary M. Cooper
Mary M. Cooper
Health Director

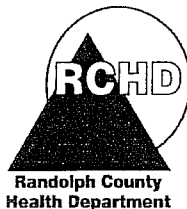
FEB 2, 2009
DATE

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February 2, 2009

Shelia Vince
Town Hall of Franklinville
Post Office Box 277
Franklinville, North Carolina 27248

Dear Shelia,

It has been brought to my attention by the Randolph County finance office that we should have an agreement between the Health Department and the Town of Franklinville for the provision of animal control services. I have enclosed two copies of the agreement for your review. Provided the agreement is satisfactory, please sign both copies and return one signed copy to Randolph County Health Department. Please keep the other copy for your file. Should you have questions or find that the agreement is not acceptable, please give me a call at 318-6217.

I appreciate your help in taking care of this detail. Thank you for the opportunity to work with the Town of Franklinville.

Sincerely,

A handwritten signature in black ink that reads "MiMi Cooper".

MiMi Cooper
Health Director



July 11, 2006
Board Mtg (initials)

RANDOLPH COUNTY ADMINISTRATION DEPARTMENT

Randolph County Office Building ☐ 725 McDowell Road ☐ P. O. Box 4728
Asheboro, North Carolina 27204-4728 ☐ County Manager: (336) 318-6300

Memorandum

TO: Mr. Gary Parker, Archdale City Manager; Mr. John Ogburn, Asheboro City Manager; The Honorable Jerry Grazier, Mayor of Franklinville; Mr. Roger Davis, Liberty City Manager; The Honorable Hampton Spivey, Mayor of Ramseur; Mr. Tony Sears, Randleman City Manager; The Honorable Mike Walker, Mayor of Seagrove; The Honorable Karen Scotton, Mayor of Staley; Ms. Ann Bailie, Trinity City Manager; Commissioner Harold Holmes, Chairman; Commissioner Darrell Frye, Vice Chairman; Commissioner Phil Kemp; Commissioner Robert Davis; Commissioner Arnold Lanier

FROM: Richard T. Wells, Interim County Manager

RE: Animal Control

DATE: June 29, 2006

I thought you would like a copy of the attached memo that MiMi Cooper, Randolph County Health Department Director, sent to her Animal Control Staff.

Randolph County Health Department

ASHEBORO, NORTH CAROLINA 27205-7368

Ira McDowell Governmental Center
2222-B South Fayetteville Street



Telephone (336) 318-6200
Fax (336) 318-6234

June 19, 2006

TO: All Animal Control Staff

FROM: MiMi Cooper, Health Director MC

RE: Animal Control Services to Municipalities

I have received important information from the new County Manger, Richard Wells, concerning providing animal control services in municipalities without animal control/law enforcement officers of their own. Mr. Wells feels very strongly that we need to provide all the services we can under the law to these small communities. That means that in towns such as Staley, Franklinville, and Seagrove we will send an animal control officer out for any type call that is covered by State Law. They will not need to call their town office first. The only problems we will not be able to assist with are nuisance calls (see Randolph County Ordinance, part B, section 1 Nuisance) with the exception of h. failing to confine a female in season which is also a State Law.

I expect now when you answer a complaint call for you to:

1. Determine the nature of the problem. If it relates to a State Law, then there is no need to ask the caller if they reside in a town or in the county. Just get their address and send an officer out.
2. If the nature of the problem falls under the nuisance rules (excessive barking, damage to property, etc), then ask if the caller lives in the county or in a municipality. If they live in one of the municipalities noted above, then explain in a customer friendly way that the county rules for controlling these problems are not enforceable in their town. Some towns, Franklinville for example, have a town employee who will issue a town citation for problems such as this. Therefore Franklinville citizens can call Town Hall for help. To my knowledge, Seagrove and Staley do not have town rules or employees who handle this kind of call.
3. Dangerous dog calls always get a response from an officer regardless of where the citizen lives. We will work out the details of jurisdiction at a later time. Never fail to dispatch an officer or ask for law enforcement help on a dog that is described as dangerous or vicious.

State Law that can be enforced in any area of Randolph County
(This list is not all inclusive. There may be other areas that I have omitted because of their rareness in application or simply because I forgot them. Always ask if you are not sure.)

NCGS 14-360 Cruelty to Animals
NCGS 14-361.1 Abandonment of Animals
NCGS 14-362 Cock Fighting
NCGS 14-362.1 Animal fights, other than cock fights

NCGS 67-2 Permitting bitch to run at large
NCGS 67-4.1 Dangerous Dog (some involvement by towns is needed)
NCGS 67-12 Permitting dogs to run at large at night

130A-185 Vaccination of all dogs and cats
130A-192 Dog and cats not wearing rabies tags
130A-196 Confinement of all biting dogs and cats
130A-200 Confinement or leashing of vicious animals

106-403 Disposition of dead domesticated animals

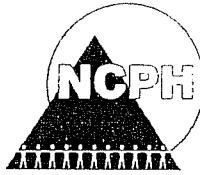
I don't have the livestock references here so Robyn will add them along with any others I have left off.

000000 11/15/05
B000 11/15/05

Randolph County Health Department

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222-B South Fayetteville Street



Telephone (336) 318-6200
Fax (336) 318-6234

January 24, 2006

TO: Mayor Grazier and Town Commissioners of Franklinville

FROM: MiMi Cooper, Randolph County Health Director MC

RE: Assistance with Animal Control in the Town of Franklinville

I enjoyed meeting with some of you last week to discuss joint issues of concern over animal control in the town of Franklinville. I have attached to this memo a copy of the Randolph County Animal Control Ordinance which I understand you all have adopted as your own rules. In this attachment I have highlighted the areas where the Animal Control Program of the Health Department will be able to assist you. As we discussed, that is primarily in the areas of seizing dangerous dogs running at large, declaring dogs vicious (see sheets attached at the end of the ordinance), animal bites, and females in heat running at large. We agreed in our meeting that the animal control officers with the Health Department have the training and equipment to handle these types of calls with the lowest risk for injury. The areas I have left un-highlighted are rules that the town will enforce through your town staff.

We also discussed the current problem you are having with the dog that was declared dangerous last year but the owners are failing to comply with the law. If that dog is ever running at large, call animal control and we will do our best to pick him up. But because this is a town declaration of dangerous, any legal charges must come from you all. I will be happy to assist you in that process but if I take out those charges, the court will dismiss them because I am not the authority who made the declaration.

I applaud the town for taking these important steps in making the citizens safe. We will work together to handle issues of animal control. If we need to discuss these issues further, feel free to contact me at 318-6217.

cc: Robyn Allison, Animal Control Supervisor

An Ordinance Governing the General Control Of Animals in Randolph County

PURPOSE

To provide for the orderly, humane treatment of domesticated animals, to control and prevent the spread of rabies and other communicable diseases, to regulate the possession or harboring of exotic reptiles and wild and dangerous animals, to provide for the operation of an animal shelter for such animals, to appoint animal control officers as well as animal cruelty investigators, and to promote the health, safety and welfare of the citizens of Randolph County, the Board of County Commissioners of Randolph County does enact the following ordinance:

Section 1. DEFINITIONS

Animal Control Officers - Person or persons properly appointed by the Randolph County Health Director to enforce all sections of this ordinance and who are responsible for discharging such other duties and functions as may be prescribed by the Randolph County Health Director through the authority described in NCGS 67-30

Animal Cruelty Investigator - Person or persons appointed by the Randolph County Board of Commissioners under North Carolina General Statutes 19A-45 to investigate suspected cases of cruelty to animals

Animal - Domestic or wild mammals capable of transmitting rabies or other communicable diseases to other animals or humans

Animal Shelter - Any premises designated by the Randolph County Commissioners for the purpose of impoundment, adoption, and disposal of animals

Appeals Board - The animal control sub-committee of the Randolph County Board of Health who serve by virtue of their position. The sub-committee is made up of the chairman of the Board of Health, the physician who serves on the Board of Health, and the veterinarian who serves on the Board

At Large - An animal shall be deemed to be at large when it is off the property of its owner and not under physical restraint of some competent person

Board of County Commissioners - Randolph County Board of Commissioners

Cage - Enclosures constructed of bars or wire mesh of adequate strength, or equivalent material, which secures all sides, top and bottom from entry or egress

Cat - A domestic feline

Our appeals
board will
serve as
ours in a
long dog
appeal.

Owner's Real Property - Any real property owned, leased by, or in the lawful possession of the owner but does not include any public right-of-way or a common area of a condominium, apartment complex or townhouse development

Person - Any individual or parent/guardian of a minor, corporation, partnership, organization, or institution recognized as a legal entity

Restraint - To humanely control an animal by leash, cage, bridle, or similar effective device for the purposes of protecting the animal from other animals or protecting people or other animals from the animal

Severe Injury - Any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic or corrective surgery or hospitalization

Shelter - A structure with a minimum of three sides and a roof used to house the animal and protect it from the weather

Sheriff - Randolph County Sheriff or his authorized representative

Stray - Any animal not under restraint and found off the property of its owner or not bearing evidence of identification of its owner

Veterinarian - A person licensed to practice veterinary medicine in the State of North Carolina

Wild and Dangerous Animals - Animals of the cat, bear and wolf species and non-human primates which are normally born and live in a wild habitat, even though such species may be raised and kept in captivity. No reference or regulation in this ordinance applies to wild and dangerous animals that are under the control of the North Carolina Zoological Park.

Section 2. AGENCY AUTHORITY AND RESPONSIBILITY

The Randolph County Board of Commissioners, in establishing this ordinance, grants authority to:

The Randolph County Health Director

- to employ and supervise animal control officers
- to seize and impound animals in violation of this ordinance
- to issue notices of violation of this ordinance
- to control the spread of rabies in animals and persons
- to educate the public concerning rabies control
- to establish and maintain the general animal control program as described herein

for adoption to a responsible adult who is willing to comply with this ordinance.

- b. The owner of an animal impounded under this ordinance may redeem the animal and regain possession within 72 hours after complying with all applicable provisions of the ordinance by paying applicable fees as determined by the Board of Commissioners. Unless proof of a current rabies vaccination can be furnished, every person who either adopts or redeems an animal at the shelter will be given a "proof of rabies vaccination notice" at the time of redemption or adoption. This notice will be stamped with a date stating the maximum time limit allowed to take the animal to the veterinarian of such person's choice for rabies vaccination. The licensed veterinarian will complete the notice by verifying that the vaccination was given and returning the form to the animal shelter. Payment for vaccination is the responsibility of the owner of the animal. The time limit for dogs and cats four (4) months and older will be seventy-two (72) hours, with Sundays and holidays excluded. For puppies and kittens under four (4) months, the time limit will vary according to their age.
- c. Any animal surrendered by its owner to the Animal Control Program of the Health Department may be immediately placed for adoption or humanely destroyed when:
 - i. The owner directs in writing that the animal be placed for adoption or humanely destroyed; and
 - ii. The owner affirmatively represents in writing that he or she is the legal owner of the animal; and
 - iii. The owner agrees that he or she will indemnify and hold the Randolph County Health Department harmless from any loss or damage he or she may sustain, including attorney's fees, by reason of the destruction or placement for adoption of said animal; and
 - iv. The owner transfers ownership of said animal to the County and releases the Health Director from any and all future claims with respect to this animal.

3. Euthanasia

- a. If its owner does not redeem an animal within 72 hours, it may be humanely destroyed.

damaging gardens, flowers, or vegetables, or defecating upon the property of another; or

- c. Maintaining animals in an environment of unsanitary conditions or lack of cleanliness which results in offensive odor or is dangerous to the public health, welfare, or safety or a failure to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease; or
- d. Maintaining property that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type, variety, density or location of the animals on the property; or
- e. Allowing or permitting an animal to bark, whine, or howl in an excessive, continuous, or untimely fashion so as to interfere with the reasonable use and enjoyment of neighboring premises; or
- f. Maintaining an animal that is diseased and dangerous to the public health; or
- g. Maintaining an animal that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, joggers, dogs walked on a leash by owners, bicycles or vehicles; or
- h. Failing to confine a female cat or dog while in season in a building or secure enclosure in such a manner that she cannot come into contact with another dog, or create a nuisance by attracting other animals, provided this section shall not be construed to prohibit the intentional breeding of animals within an enclosed, concealed area on the premises of the owner of an animal which is being bred.

2. Running at Large

It shall be unlawful for any person owning or controlling any animal to allow the same to create a danger to the public by running at large. Animal control officers may pick up and confine at the Randolph County Animal Shelter any animal endangering property, people or livestock. Officers may also issue civil citations with fines for animals in violation. Each person owning or controlling an animal shall be responsible for taking whatever measures are reasonably necessary for keeping the animal on the owner's property, or restrained on a leash or in a vehicle (passenger compartment, trailer or bed enclosure) when off the owner's property.

- a. On property one acre or less- It shall be unlawful for any person owning or having possession, custody or control of any animal, to keep such animal on his property unless such animal is under sufficient restraint such as a leash, bridle, cage (or similar device which restrains and controls the animal) or adequately contained by a fence or other enclosure. If the owner maintains an effective and working

costs. The decision to loan traps will be based on availability of traps, signature of a responsible person and danger to the community posed by uncaptured animals. It is a violation of this ordinance to interfere with a trap set by an animal control officer or a citizen in accordance with the County policy.

4. Dangerous Dogs You have designated Arnold to declare your dogs. Our Appeals board will serve as yours. If you have a dang. dog running at large,
- a. The Randolph County Board of County Commissioners have appointed the Health Director as the person designated to determine when a dog is dangerous or potentially dangerous. The Appeals Board appointed by the Commissioners shall consist of the Chairman of the Board of Health, the veterinarian member, and the physician member. Call us and we will respo

- b. In addition to North Carolina General Statute 67-4.1 through 67-4.5, dangerous dogs and potentially dangerous dogs in Randolph County will be subject to these requirements:
- i. Any dog determined to be a dangerous dog or a potentially dangerous dog must be confined according to the law and this ordinance until the dog dies, is destroyed or the determination is overturned on appeal.
- ii. The owner of a dangerous dog or potentially dangerous dog must prominently display a "Dangerous Dog" sign at the entrance to the owner's property and on all sides of the enclosure containing the dog. The sign at the entrance must be 2 ft. x 2 ft., and the signs at all sides of the enclosure must be a minimum of 8.5 in. x 11 in. and read

BEWARE OF DOG
STAY AWAY
THIS DOG IS DANGEROUS
(according to State Law NCGS 67-4.1)

The signs must be clearly readable.

5. Wild and Dangerous Animals

- a. It shall be unlawful for any person to possess or harbor a wild and dangerous animal or their hybrids.
- b. Wild and dangerous animals privately owned on July 13, 1999 may remain in the county but must be registered with the Animal Control section of the Health Department.
- c. Breeding or allowing the reproduction of wild and dangerous animals as

- b. Exotic mammals privately owned prior to any embargo or protection orders may remain in the county if so allowed by the order but must be registered with the Animal Control section of the Health Department.
- c. Breeding or allowing the reproduction of exotic mammals as defined in this ordinance is prohibited.

Section 4. RABIES CONTROL This entire section is applicable in Franklinville .
It is basically the same as State Rabies Control law.

A. Prevention

1. In accordance with state law, the owner of every dog and cat over four months of age shall have the animal vaccinated against rabies. The time or times of vaccination shall be established by the North Carolina Commission for Health Services. Rabies vaccine shall be administered only by a licensed veterinarian. Only animal rabies vaccine licensed by the United States Department of Agriculture and approved by said Commission shall be used on animals in this state.
2. The local Health Director shall organize or assist other County departments to organize quarterly countywide rabies vaccination clinics for the purpose of vaccinating dogs and cats. Public notice of the time and place of rabies vaccination clinics shall be published in a newspaper having general circulation within the area.
3. A licensed veterinarian who administers rabies vaccine to a dog or cat shall complete a three-copy rabies vaccination certificate. The original rabies vaccination certificate shall be given to the owner of each dog or cat that receives rabies vaccine. A record of the rabies vaccination certificate shall be retained by the licensed veterinarian. Upon request a copy shall be given to the Health Director.
4. A licensed veterinarian who administers rabies vaccine to a dog or cat shall issue a rabies vaccination tag to the owner of the animal. The rabies vaccination tag shall show the year issued, a vaccination number, the words "North Carolina" or the initials "N.C." and the words "rabies vaccine". Dogs and cats shall wear the rabies vaccination tags at all times.

B. Quarantine

When reports indicate a positive diagnosis of rabies to the extent that lives of persons are endangered, the Health Director may declare an area-wide quarantine for such period as is deemed necessary. Upon invoking of such quarantine, no dog or cat may be taken or shipped from the county without written permission of the Health

ordinance and the directions of the Health Director in such investigations. A copy of all animal bite reports will be sent to the Health Director as soon as investigations are complete.

Section 5. CRUELTY If you have a cruelty situation, call Robyn or MiMi.
We will help you with education of owners or charges if necessary.

A. Appointment of Animal Cruelty Investigator

1. The Board of County Commissioners may appoint one or more animal cruelty investigators to serve in the county without any compensation or other employee benefits. In making these appointments, the Board may consider persons nominated by any society incorporated under North Carolina law for the prevention of cruelty to animals. Prior to making any such appointment, the Board of County Commissioners are authorized to enter into an agreement whereby any necessary expenses of caring for seized animals not collectable through charge to the owner may be paid by the animal cruelty investigator or by any society incorporated under North Carolina law for the prevention of cruelty to animals that is willing to bear such expense.
2. Animal cruelty investigators shall serve a one-year term subject to removal for cause by the Board of County Commissioners. Animal cruelty investigators shall, while in the performance of their official duties, wear in plain view a badge of a design approved by the Board identifying them as animal cruelty investigators, and provided at no cost to the County.
3. Upon approval by the Board of County Commissioners, the animal cruelty investigator or investigators may be reimbursed for all necessary and actual expenses, to be paid by the County.
4. Animal cruelty investigators appointed under the provision of this section shall not be considered for any purpose as employees, officers or agents of Randolph County.
5. The Sheriff may also investigate suspected cases of animal cruelty and issue citations for such.

B. Powers and Duties of the Animal Cruelty Investigator

The animal cruelty investigator is empowered with the duties and powers as prescribed by North Carolina General Statutes.

C. Cruelty to Animals

It shall be unlawful for any person to molest, torture, torment, deprive of necessary

action may be commenced to recover the penalty and costs associated with collection of the penalty, and/or a criminal summons may be issued against the owner or possessor or other alleged violator of this ordinance, and upon conviction, the owner shall be punishable as provided by State law. The Health Director, or designee, is expressly authorized to initiate and prosecute small claims actions in District Court to collect civil penalties and fees due the Department and may call on the jurisdiction's Attorney's Office for assistance as needed.

3. Issuance of a citation for a violation of the Section entitled "Running At Large" is directed toward and against the owner and/or possessor of an animal. The purpose of the issuance of a citation is to affect the conduct of the owner of an animal by seeking to have the owner responsibly maintain sufficient restraint and confinement of his/her animal. Therefore, an owner of an animal shall be subject to escalating penalties for each violation of the Section allowed by the owner, whether the animal is the same animal, a different animal, or various animals belonging to the same owner.
4. The following civil penalties are hereby established for the indicated violations of this ordinance:

Animal Control Civil Penalty Fee Schedule

<u>SECTION</u>	<u>VIOLATION DESCRIPTION</u>	<u>FEE</u>
3-B(1)	Nuisance Violations	
	1 st violation.....	\$25.00
	2 nd violation.....	\$50.00
	3 rd violation.....	\$100.00
3-B(2)	Animals Running at Large	
	1 st violation.....	\$25.00
	2 nd violation.....	\$50.00
	3 rd violation.....	\$100.00
3-B(2)(d)	Interference with an Animal Control Officer	
	1 st violation.....	\$250.00
	2 nd violation.....	\$500.00
	3 rd violation.....	\$1000.00
3-B(3)(d)	Abandoning an Animal.....	\$100.00
3-B(3)(e)	Intentional Damage/Neglect	
	to dog trap.....	up to \$250.00
	to cat trap.....	up to \$75.00

Section 8. SEPARABILITY

If any section, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 9. REPEAL OF PRIOR ORDINANCES

"An Ordinance Governing the General Control of Animals in Randolph County, " enacted July 12, 1999, is hereby repealed.

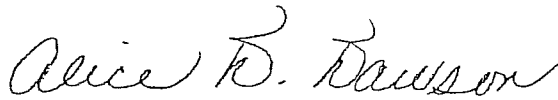
Section 10. This ordinance shall become effective January 10, 2000.

Upon motion of Commissioner Davis, seconded by Commissioner Holmes, the foregoing ordinance was passed by the following vote:

Ayes: Kemp, Frye, Davis, Mason, Holmes
Noes: None

I, Alice D. Dawson, Clerk to the Board of the Randolph County Board of Commissioners, do hereby certify that the foregoing ordinance was duly adopted by the governing body of Randolph County at a regular meeting thereof, a quorum being present.

The 10th day of January, 2000.



Alice D. Dawson, Clerk to the Board

This ordinance was amended on June 5, 2000 to reflect the transfer of joint responsibility of animal control existing between the Sheriff and the Health Director solely to the Health Director, with the provision that the Sheriff's Office will provide support when enforcement actions are needed. This change will become effective July 1, 2000.

Section 1 Definitions and Section 3.B.4.a and Section 4. a. of this ordinance was amended on September 5, 2000 to reflect a change in the person designated to determine

§ 67-14. Mad dogs, dogs killing sheep, etc., may be killed.

Any person may kill any mad dog, and also any dog if he is killing sheep, cattle, hogs, goats, or poultry.

(1919, c. 116, s. 8; C.S., s. 1682.)

§ 67-14.1. Dogs injuring deer or bear on wildlife management area may be killed; impounding unmuzzled dogs running at large.

(a) Any dog which trails, runs, injures or kills any deer or bear on any wildlife refuge, sanctuary or management area, now or hereafter so designated and managed by the Wildlife Resources Commission, during the closed season for hunting with dogs on such refuge or management area, is hereby declared to be a public nuisance, and any wildlife protector or other duly authorized agent or employee of the Wildlife Resources Commission may destroy, by humane method, any dog discovered trailing, running, injuring or killing any deer or bear in any such area during the closed season therein for hunting such game with dogs, without incurring liability by reason of his act in conformity with this section.

(b) Any unmuzzled dog running at large upon any wildlife refuge, sanctuary, or management area, when unaccompanied by any person having such dog in charge, shall be seized and impounded by any wildlife protector, or other duly authorized agent or employee of the Wildlife Resources Commission.

(c) The person impounding such dog shall cause a notice to be published at least once a week for two successive weeks in some newspaper published in the county wherein the dog was taken, or if none is published therein, in some newspaper having general circulation in the county. Such notice shall set forth a description of the dog, the place where it is impounded, and that the dog will be destroyed if not claimed and payment made for the advertisement, a catch fee of one dollar (\$1.00) and the boarding, computed at the rate of fifty cents (50¢) per day, while impounded, by a certain date which date shall be not less than 15 days after the publication of the first notice. A similar notice shall be posted at the courthouse door.

(d) The owner of the dog, or his agent, may recover such dog upon payment of the cost of the publication of the notices hereinbefore described together with a catch fee of one dollar (\$1.00) and the expense, computed at the rate of fifty cents (50¢) per day, incurred while impounding and boarding the dog.

(e) If any impounded dog is not recovered by the owner within 15 days after the publication of the first notice of the impounding, the dog may be destroyed in a humane manner by any wildlife protector or other duly authorized agent or employee of the North Carolina Wildlife Resources Commission, and no liability shall attach to any person acting in accordance with this section.

(1951, c. 1021, s. 1.)

§ 130A-200. Confinement or leashing of vicious animals.

A local health director may declare an animal to be vicious and a menace to the public health when the animal has attacked a person causing bodily harm without being teased, molested, provoked, beaten, tortured or otherwise harmed. When an animal has

This is additional
st law that I
can use in dealing
with biting dogs.

... situations occur where this declaration would be helpful.

p. etc., may be killed.
no any dog if he is killing sheep, cattle,

ar on wildlife management area may be
s run in at large.

s or kill s any deer or bear on any wildlife ref-
or hereafter so designated and managed by the
re closed season for hunting with dogs on such
clared to be a public nuisance, and any wildlife
or employe of the Wildlife Resources Commis-
y dog discovered trailing, running, injuring or
during the closed season therein for hunting
liability by reason of his act in conformity with

large up on any wildlife refuge, sanctuary, or
by any person having such dog in charge, shall
e protector or other duly authorized agent or
mission.

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in some newspaper published in the county
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per day, while impounded, by a certain date
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g of vicious animals.

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a person causing bodily harm without being
ired or otherwise harmed. When an animal has

been declared to be vicious and a menace to the public health, the local health director
shall order the animal to be confined to its owner's property. However, the animal may
be permitted to leave its owner's property when accompanied by a responsible adult
and restrained on a leash.

(1935, c. 122, s. 18; 1953, c. 876, s. 14; 1983, c. 891, s. 2.)

Animal Control Ordinance for the Town of Franklinville

Article 1 Title and Jurisdiction

Section 1 Title

This Ordinance shall be entitled, “Animal Control Ordinance for the Town of Franklinville.”

Section 2 Jurisdiction

All territory within the corporate limits of Franklinville shall be regulated by this Ordinance.

Section 3 Intent and Authorization

The intent of this Ordinance is to accommodate and protect various types of animals within the corporate limits while insuring the public health, safety, or welfare of the community is not undermined. The Town of Franklinville, in accordance with G.S. 160A-174, and G.S. 160A-193 shall prohibit, regulate, or abate nuisances that are detrimental to the health, safety, or welfare of the community. More specifically, the town shall prohibit abuse to animals in accordance with G.S. 160-182 and establish a bird sanctuary to prevent the hunting, killing, trapping or otherwise taking of any protected birds in accordance with G.S. 160A-188.

Article 2 Definitions

Animal – Any warm blooded creature which is commonly or actually domesticated.

At large – An animal that is not on its owner’s / keeper’s property or in an enclosure or is not under the secured control of the owner or some other responsible person by means of leash, cord or chain.

Dangerous or vicious animal – Any animal whose behavior constitutes a risk of injuring a human or animal or who by nature is commonly accepted as dangerous or non-domesticated. Such behavior includes, but is not limited to, the animal’s biting or attacking or attempting to bite or attack any person or other animal. The following criteria will be use in identifying an animal that is attacking or attempting to attack.

1. Any animal which, when unprovoked, chases or approaches a person upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude or attack.
2. Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of human beings or domestic animals.
3. An animal shall not be deemed dangerous solely because it bites, attacks, or menaces. Exceptions shall include animals protecting their owner or property of the owner; being tormented or abused, or protecting or defending its young.

Dog – Any animal of the canine species.

Owner/Keeper – Any person or group of persons owning, keeping, having charge or custody of sheltering, feeding, harboring or permitting any animal to remain on any premises under his charge or control.

Nuisance – Includes, but is not limited to, the following acts by an animal or group of animals:

1. frequently and continued noise of any domesticated animal which disturbs the reasonable comfort of any neighboring property owners;
2. the creation of unsanitary, dangerous or offensive conditions including foul odor;
3. damaging or defiling private or public property;
4. chasing, snapping at, harassing or impeding pedestrians, bicyclists, or vehicles;
5. interfering with, molesting, or attacking person (s) or animal (s);
6. inappropriately housing a female dog in heat in such a manner that she attracts other dogs within a radius of one mile; and,
7. is diseased or dangerous to the public health or to the health of other animals.

Article 3 Bird Sanctuaries

Section 1 Unlawful Acts within a Bird Sanctuary

The Town of Franklinville is hereby declared a bird sanctuary and within the corporate limits it shall be unlawful to:

1. trap, hunt, shoot or otherwise kill any wild bird; or
2. interfere with, molest, or in any manner harm or damage any bird's nest or bird's eggs with a nest.

Section 2 Exceptions

When starlings or similar birds or fowls become a menace to public health or private property, they shall be trapped and removed.

Section 3 Signage

Private groups (such as bird clubs) may erect signs notifying the public of the restrictions on birds or similar fowl within the town, provided the Franklinville Planning Board approves the location, size and design of such a sign.

Article 4 Regulating Animals

Section 1 Animal Running at Large

It shall be unlawful for any person owning or controlling an animal to allow it to run at large off the property of the owner. The local animal control officer is authorized to cooperate with any county animal control officer, the sheriff's department or the health department to affect the capture and confinement of any such animal. The owner of any animal so captured or confined shall have such rights of appeal as may be granted by the ordinances of Randolph County. This section shall not be interpreted to prohibit or restrict the use of trained hunting or working dogs which are controlled by voice commands where the use of such animals is otherwise permitted by law.

Section 4 Guidelines for Raising Certain Animals and Fowls

- 4.1 The raising of swine (hogs or pigs) is specifically prohibited within the Town of Franklinville.
- 4.2 No more than one (1) cow or other large livestock, including horses, or four (4) goats, or other small livestock shall be permitted per acre of land fenced and set aside exclusively for that activity. No more than twenty (20) fowls or rabbits shall be permitted per acre, but they may be housed in an enclosure covering only a portion of that area. *Acreage established for residential uses shall not be included in determining this density.*
- 4.3 Any land set aside for small or large livestock, or fowls such as chickens, turkeys, ducks, guineas, geese, pheasants, or other domestic animal such as rabbits shall be completely enclosed.
- 4.4 Houses for various types of fowl or rabbit hutches shall not be less than eighteen (18) inches in height. The minimum floor area shall be four (4) square feet for each animal housed. Fowls such as chickens or geese shall be housed in separate structures from other animals such as rabbits. Any run shall be well-drained to prevent the accumulation of moisture. Structures used to house animals shall be well ventilated, clean and free from accumulation of animal excrement and objectionable odors.
- 4.5 Structures used to house any type of fowl shall be located, at least, seventy-five (75) feet from any property line; similar buildings for horses, cows and other large livestock shall be located at least 100 feet from any property line.
- 4.6 Any fowl or domesticated animal allowed within the corporate limits shall be provided adequate shelter in addition to any grazing areas required by this ordinance.

Section 5 Dangerous Animals Restrictions

- 5.1 If the animal control officer/law enforcement officer determines that an animal is dangerous or vicious, as defined herein, the owner shall be notified in writing. The owner shall turn the animal over to the Randolph County Animal Shelter within twenty-four (24) hours of such notification. If the owner fails to surrender said animal, an animal control officer/law enforcement officer shall seize and confine the animal at the County Animal Shelter. The animal control officer shall return the animal to the owner if he can provide an enclosure as specified in Subsection 5.4 below. Until the enclosure is constructed and approved, the animal shall remain at the shelter at the expense of the owner. If the owner refuses to provide the enclosure, the animal, after five (5) days of confinement, shall either be destroyed or given to an individual or organization who will provide an enclosure as specified below in Subsection 5.4. If the latter course is taken, a representative from the humane society shall inspect the structure to insure the animals are housed properly.

Section 2 Nuisances Prohibited

It shall be unlawful for any person to own, keep, possess or maintain an animal in such a manner as to constitute a public nuisance or a nuisance to neighbors. By way of example, and not by way of limitation, certain acts are declared to be public nuisances and are therefore unlawful.

- a. Having an animal which disturbs the rights of, threatens the safety of or injures a member of the general public, or interferes with the ordinary use and enjoyment of the property of a member of the general public;
- b. Allowing or permitting an animal to damage the property of any one other than its owner, including but not limited to turning over of garbage containers, damaging gardens or flower beds, or defecating upon the property of others;
- c. Maintaining animals in unsanitary conditions which result in offensive odors or which is otherwise determined to be dangerous to the public health, welfare or safety;
- d. Maintaining property that is offensive or dangerous to the public health, welfare or safety or the community because of the number, type, variety, density or location of animals on the property;
- e. Allowing or permitting an animal to bark, whine or howl in an excessive, continuous or untimely fashion so as to interfere with the reasonable use and enjoyment of neighboring premises;
- f. Keeping or maintaining an animal which is diseased and dangerous to the health and safety of the public;
- g. Keeping or maintaining an animal which habitually and repeatedly chases, snaps at, barks at, or threatens pedestrians, joggers, bicyclists, vehicles or dogs walked on leashes;
- h. Failing to confine a female animal while in season in a building or secure enclosure in such a manner that she cannot come into contact with another animal or attract other animals onto the property, providing that this section shall not be interpreted to prohibit the intentional breeding of such animals in secure enclosures on the premises of the owner where otherwise permitted by law;
- i. Keeping or maintaining an animal without a collar, with currently valid tax and rabies tags attached thereto.

Should the local animal control officer have reason to believe an animal is creating a nuisance, the officer shall immediately contact the county animal control officer, the sheriff's department or the health department and shall cooperate with such appropriate agency to effect the capture and confinement of the animal to the extent provided by the Randolph County animal control ordinance. The owner of such animal shall have such rights of appeal as provided for by the said county ordinance.

Section 3 Enclosure

Any enclosure or fenced areas used to restrain any domesticated animal, including fowl, shall be kept clean in order to minimize obnoxious odors and prevent the area from becoming a breeding place for flies, rodents, insects, or other vermin.

5.2 The owner of any animal declared dangerous or vicious by the animal control officer/local law enforcement officer may appeal that decision, in writing, within five (5) days to the Franklinville Town Board of Commissioners. If the Board determines the animal is **not** dangerous or vicious, it shall be returned to the owner without charge. If they determine that the animal is dangerous or vicious, the animal shall remain at the shelter and be handled as specified in Subsection 5.1 above.

5.3 If owner is still not satisfied, he may appeal to Randolph County Superior Court. Pending the outcome the animal shall remain in the animal shelter. If the Court determines the animal is not dangerous or vicious, it shall be returned to the owner at no charge. If the court concurs with the town, the animal control officer/law enforcement officer shall continue with one of the options specified in Subsection 5.2 above. *The owner of the animal shall be responsible for all boarding, veterinarian, or other expenses associated with keeping the animal during the appeal.*

5.4 All dangerous or vicious animals shall be housed in an enclosure that meets or exceeds the standards specified below:

- (a) The enclosure shall have a minimum area of fifteen (15) feet by six (6) feet with a floor consisting of four (4) inches of concrete. The walls and roof or top shall be constructed of welded chain link of a minimum thickness of twelve (12) gauge. Sides (walls) shall be at least six (6) feet in height. All supports shall consist of two and one half (2 ½) in galvanized steel poles. The vertical support poles shall be sunk in concrete filled holes, at least eighteen (18) inches deep and eight (8) inches in diameter. Any door shall be secured by a child proof lock. The enclosure shall contain forty-five (45) square feet for each animal housed. Within each enclosure shall be adequate shelter to protect the animals from the elements. Minor variances, which do not undermine the stability or strength of the enclosure or structure, may be permitted by the building inspector or the animal control officer on case-by-case basis.
- (b) Warning signs, at least 120 square inches in area, shall be mounted on the enclosure and be clearly visible from all adjoining property owners. Each sign, shall graphically or verbally communicate to all readers, including children, that a dangerous or vicious animal is housed there.
- (c) The owner of the animal shall be responsible for the maintenance of the enclosure. Failure to maintain the enclosure shall subject the owner to penalties as prescribed herein.

Section 6 Permits

The Town of Franklinville shall require a permit from all property owners who raise cloven-hoofed animals, horses or fowls. *Domesticated animals, including dogs or cats, are specifically exempt from this requirement.* All permits shall be renewed annually at a cost of \$5 per household. The application shall list all animals or fowls proposed to be housed on the property. Before any permit is issued, an employee of the town may inspect the site, upon proper notification, to insure the standards specified in this Ordinance are met. The permit may be revoked if it has been mistakenly issued without compliance with this Ordinance, or when false information has been given, or

when the public health, safety, and welfare is menaced by the keeping of such animals. If a violation of this Ordinance does occur, the property owner has thirty (30) days, after notification, to correct the problem or his permit shall be revoked. If a permit is revoked, the applicant shall be given a written explanation of the reasons for the revocation.

Any person may appeal in writing to the Town Board of Commissioners of Franklinville within ten (10) days after their permit has been revoked.

Section 7 Civil and Criminal Penalties

In addition to the remedy of impounding an animal found running at large within the Town of Franklinville, the owner of the animal shall be subject to a fine. Citations shall be delivered in person or by registered mail to the owner. This fine shall be paid to the Town within fourteen (14) days after receipt of the notice by the owner. For the first offense the fee shall be \$25. For a second offense within twelve (12) months of the issuance of the first, the penalty shall be \$50. For any additional violations within twelve (12) months the penalty shall be \$100. If the owner reclaims his animal and it is his first offense, the fine shall be waived.

If the animal's owner fails to pay the civil penalties, a criminal summons shall be issued against the owner as a misdemeanor.

Section 8 Adoption and Effective Date

This ordinance was duly adopted by the Franklinville Board of Commissioners on November 6, 1995 and shall become effective immediately.

Animal Control Ordinance For The Town of Franklinville

Article 1 Title and Jurisdiction

Section 1 Title

This Ordinance shall be entitled, "Animal Control Ordinance for the Town of Franklinville."

Section 2 Jurisdiction

All territory within the corporate limits of Franklinville shall be regulated by this Ordinance.

Section 3 Intent and Authorization

The intent of this Ordinance is to accommodate and protect various types of animals within the corporate limits while insuring the public health, safety, or welfare of the community is not undermined. The Town of Franklinville, in accordance with G.S. 160A-174, and G.S. 160A-193 shall prohibit, regulate, or abate nuisances that are detrimental to the health, safety, or welfare of the community. More specifically, the town shall prohibit abuse to animals in accordance with G.S. 160-182 and establish a bird sanctuary to prevent the hunting, killing, trapping, or otherwise taking of any protected birds in accordance with G.S. 160A -188. * See Amendment #1

Article 2 Definitions

Animal - Any warm blooded creature which is commonly or actually domesticated.

At large - An animal that is not on its owner's/ keeper's property or in an enclosure or is not under the secured control of the owner or some other responsible person by means of leash, cord, or chain.

Dangerous or vicious animal -Any animal whose behavior constitutes a risk of injuring a human or animal or who by nature is commonly accepted as dangerous or non domesticated. Such behavior includes, but is not limited to, the animal's biting or attacking or attempting to bite or attack any person or other animal. The following criteria will be used in identifying an animal that is attacking or attempting to attack.

1. Any animal which, when unprovoked, chases or approaches a person upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack.
2. Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of human beings or domestic animals.
3. An animal shall not be deemed dangerous solely because it bites, attacks, or menaces. Exceptions shall include animals: protecting their owner or property of the owner; being tormented or abused, or protecting or defending its young.

Dog - Any animal of the canine species.

Owner/Keeper - Any person or group of persons owning, keeping, having charge or custody of, sheltering, feeding, harboring, or permitting any animal to remain on any premises under his charge or control.

Nuisance - Includes, but is not limited to, the following acts by an animal or group of animals:

1. frequently and continued noise of any domesticated animal which disturbs the reasonable comfort of any neighboring property owners;
2. the creation of unsanitary, dangerous or offensive conditions including foul odor;
3. damaging or defiling private or public property;
4. chasing, snapping at, harassing, or impeding pedestrians, bicyclists, or vehicles;
5. interfering with, molesting, or attacking person(s) or animal(s);
6. inappropriately housing a female dog in heat in such a manner that she attracts other dogs within a radius of one mile; and,
7. is diseased or dangerous to the public health or to the health of other animals. * See Amendment # 2

Article 3 Bird Sanctuaries

Section 1 Unlawful Acts within a Bird Sanctuary

The Town of Franklinville is hereby declared a bird sanctuary and within the corporate limits it shall be unlawful to:

1. trap, hunt, shoot, or otherwise kill any wild bird; or,
2. interfere with, molest, or in any manner harm or damage any bird's nest or bird's eggs with a nest.

Section 2 Exceptions

When starlings or similar birds or fowls become a menace to public health or private property, they shall be trapped and removed.

Section 3 Signage

Private groups (such as bird clubs) may erect signs notifying the public of the restrictions on birds or similar fowl within the town, provided the Franklinville Planning Board approves the location, size, and design of such a sign.

Article 4 Regulating Animals

Section 1 Animals Running-at-Large

57C
Amendment
25 *
It shall be unlawful for any person owning or controlling any animal to allow it to run-at-large. The animal control officer/law enforcement officer shall have the right to capture and retain any domesticated animal running free in the Randolph County Animal Control Shelter. This shall not be interpreted to restrict trained hunting/working dogs, which are controlled by voice commands, from hunting in areas where such activities are permitted by law.

Section 2 Nuisances Prohibited

57C
Amendment
4 *
It shall be unlawful for the owner/keeper of any animal to create a nuisance. Once notified by the animal control officer /law enforcement officer, the owner/keeper shall clean up or abate the nuisance within a reasonable time period or be subject to the penalties prescribed herein.

Section 3 Enclosure

Any enclosure or fenced areas used to restrain any domesticated animal, including fowl, shall be kept clean in order to minimize obnoxious odors and prevent the area from becoming a breeding place for flies, rodents, insects, or other vermin.

Section 4 Guidelines for Raising Certain Animals and Fowls

- 4.1 The raising of swine (hogs or pigs) is specifically prohibited within the Town of Franklinville.
- 4.2 No more than one (1) cow or other large livestock, including horses, or four (4) goats, or other small livestock shall be permitted per acre of land fenced and set aside exclusively for that activity. No more than twenty (20) fowls or rabbits shall be permitted per acre, but they may be housed in an enclosure covering only a portion of that area. *Acreage established for residential uses shall not be included in determining this density.*
- 4.3 Any land set aside for small or large livestock, or fowls such as chickens, turkeys, ducks, guineas, geese, pheasants, or other domestic animal such as rabbits shall be completely enclosed.
- 4.4 Houses for various types of fowl or rabbit hutches shall not be less than eighteen (18) inches in height. The minimum floor area shall be four (4) square feet for each animal housed. Fowls such as chickens or geese shall be housed in separate structures from other animals such as rabbits. Any run shall be well-drained to prevent the accumulation of moisture. Structures used to house animals shall be well ventilated, clean and free from accumulation of animal excrement and objectionable odors.
- 4.5 Structures used to house any type of fowl shall be located, at least, seventy-five (75) feet from any property line; similar buildings for horses, cows and other large livestock shall located at least 100 feet from any property line. And,

- 4.6 Any fowl or domesticated animal allowed within the corporate limits shall be provided adequate shelter in addition to any grazing areas required by this Ordinance.

Section 5 Dangerous or Vicious Animals Restrictions

- * Sec. Amendment # 65
- 5.1 If the animal control officer/ law enforcement officer determines that an animal is dangerous or vicious, as defined herein, the owner shall be notified in writing. The owner shall turn the animal over to the Randolph County Animal Shelter within twenty-four (24) hours of such notification. If the owner fails to surrender said animal, an animal control officer/law enforcement officer shall seize and confine the animal at the County Animal Shelter. The animal control officer shall return the animal to the owner if he can provide an enclosure as specified in Subsection 5.4 below. Until the enclosure is constructed and approved, the animal shall remain at the shelter at the expense of the owner. If the owner refuses to provide the enclosure, the animal, after five (5) days of confinement, shall either be destroyed or given to an individual or organization who will provide an enclosure as specified below in Subsection 5.4. If the latter course is taken, a representative from the humane society shall inspect the structure to insure the animals are housed properly.
- 5.2 A owner of any animal declared dangerous or vicious by the animal control officer /local law enforcement officer may appeal that decision, in writing, within five (5) days to the Franklinville Town Board of Commissioners. If the Board determines the animal is ~~not~~ dangerous or vicious, it shall be returned to the owner without charge. If they determine the animal is dangerous or vicious, the animal shall remain at the shelter and be handled as specified in Subsection 5.1 above.
- 5.3 If the owner is still not satisfied, he may appeal to Randolph County Superior Court. Pending the outcome the animal shall remain in the animal shelter. If the Court determines the animal is not dangerous or vicious, it shall be returned to the owner at no charge. If the court concurs with the town, the animal control officer/law enforcement officer shall continue with one of the options specified in Subsection 5.2 above. *The owner of the animal shall be responsible for all boarding, veterinarian, or other expenses associated with keeping the animal during the appeal.*
- * Sec. Amendment # 66
- 5.4 All dangerous or vicious animals shall be housed in an enclosure that meets or exceeds the standards specified below:
- (a) The enclosure shall have a minimum area of fifteen (15) feet by six (6) feet with a floor consisting of four (4) inches of concrete. The walls and roof or top shall be constructed of welded chain link of a minimum thickness of twelve (12) gauge. Sides (walls) shall be at least six (6) feet in height. All supports shall consist of two (2) and one half (1/2) inch galvanized steel poles. The vertical support poles shall be sunk in concrete filled holes, at least eighteen (18) inches deep and eight (8) inches in diameter. Any door shall be secured by a child proof lock. The enclosure shall contain forty-five (45) square feet for each animal housed. Within each enclosure shall be adequate shelter to protect the animals from the elements. Minor variances, which do not undermine the stability or strength of the enclosure or structure, may be permitted by the building inspector or the ^{local} animal control officer on a case-by-case basis.

- (b) Warning signs, at least 120 square inches in area, shall be mounted on the enclosure and be clearly visible from all adjoining property owners. Each sign, shall graphically or verbally, communicate to all readers, including children, that a dangerous or vicious animal is housed there.
- (c) The owner of the animal shall be responsible for the maintenance of the enclosure. Failure to maintain the enclosure shall subject the owner to penalties as prescribed herein.

* see Amendment # 7, followed by # 8
Section 6 Permits

The Town of Franklinville shall require a permit from all property owners who raise cloven-hoofed animals, horses, or fowls. *Domesticated animals, including dogs or cats, are specifically exempt from this requirement.* All permits shall be renewed annually at a cost of \$5 per household. The application shall list all animals or fowls proposed to be housed on the property. Before any permit is issued, an employee of the town may inspect the site, upon proper notification, to insure the standards specified in this Ordinance are met. The permit may be revoked if it has been mistakenly issued without compliance with this Ordinance, or when false information has been given, or when the public health, safety, and welfare is menaced by the keeping of such animals. If a violation of this Ordinance does occur, the property owner has thirty (30) days, after notification, to correct the problem or his permit shall be revoked. If a permit is revoked, the applicant shall be given a written explanation of the reasons for the revocation.

Any person may appeal in writing to the Town Board of Commissioners of Franklinville within ten (10) days after their permit has been revoked.


Section 7 Civil and Criminal Penalties

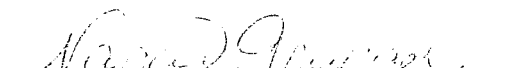
In addition to the remedy of impounding an animal found running at large within the Town of Franklinville, the owner of the animal shall be subject to a fine. Citations shall be delivered in person or by registered mail to the owner. This fine shall be paid to the Town within fourteen (14) days after receipt of the notice by the owner. For the first offense the fee shall be \$25.00. For a second offense within twelve (12) months of the issuance of the first, the penalty shall be \$50.00. For any additional violations within twelve (12) months the penalty shall be \$100.00. If the owner reclaims his animal and it is his first offense, the fine shall be waived.

If the animal's owner fails to pay the civil penalties, a criminal summons shall be issued against the owner as a misdemeanor.

Section 8 Adoption and Effective Date

This Ordinance was duly adopted by the Franklinville Board of Commissioners on **November 6, 1995 and shall become effective immediately.**


L. McKay Whatley, Mayor
Town of Franklinville


Nancy Granger, Clerk to the Board

Proposed amendments to the Animal Control Ordinance for the Town of Franklinville

ARTICLE I

Section 3 Intent and Authorization

Amend by adding the following sentence after the existing paragraph:

"It is the intent of the board to facilitate and coordinate animal control efforts of the Town of Franklinville with those of Randolph County, through the existing county ordinances governing such efforts of the Randolph County Sheriff's Department and the Randolph County Health Department"

ARTICLE II

Add the following definitions:

Animal Control Officer- a person or persons appointed by the Randolph County Sheriff to enforce Randolph County ordinances or applicable state laws

Local Animal Control Officer- a person or persons appointed by the Franklinville Town Board to enforce the terms of this ordinance and to cooperate with any county officer or agency in the administration of animal control ordinances or applicable state law.

ARTICLE IV

Section 1 Animal Running at Large

Replace with the following language:

"It shall be unlawful for any person owning or controlling an animal to allow it to run at large off the property of the owner. The local animal control officer is authorized to cooperate with any county animal control officer, the sheriff's department or the health department to effect the capture and confinement of any such animal. The owner of any animal so captured or confined shall have such rights of appeal as may be granted by the ordinances of Randolph County. This section shall not be interpreted to prohibit or restrict the use of trained hunting or working dogs which are controlled by voice commands where the use of such animals is otherwise permitted by law."

Section 2 Nuisances Prohibited

Replace with the following language

"It shall be unlawful for any person to own, keep, possess or maintain an animal in such a manner as to constitute a public nuisance or a nuisance to neighbors. By way of example, and not by way of limitation, certain acts are declared to be public nuisances and are therefore unlawful

a. Having an animal which disturbs the rights of, threatens the safety of or ^{injures} damages a member of the general public, or interferes with the ordinary use and enjoyment of the property of a member of the general public;

b. Allowing or permitting an animal to damage the property of any one other than its owner, including but not limited to turning over of garbage containers, damaging gardens or flower beds, or defecating upon the property of others;

c. Maintaining animals in unsanitary conditions which result in offensive odors or which is otherwise determined to be dangerous to the public health, welfare or safety,

d. Maintaining property that is offensive or dangerous to the public health, welfare or safety of the community because of the number, type, variety, density or location of animals

on the property;

e. Allowing or permitting an animal to bark, whine or howl in an excessive, continuous or untimely fashion so as to interfere with the reasonable use and enjoyment of neighboring premises;

f. Keeping or maintaining an animal which is diseased and dangerous to the health and safety of the public;

g. Keeping or maintaining an animal which habitually and repeatedly chases, snaps at, barks at, attacks or threatens pedestrians, joggers, bicyclists, vehicles or dogs walked on leashes;

h. Failing to confine a female animal while in season in a building or secure enclosure in such a manner that she cannot come into contact with another animal or attract other animals onto the property, providing that this section shall not be interpreted to prohibit the intentional breeding of such animals in secure enclosures on the premises of the owner where otherwise permitted by law;

i. Keeping or maintaining an animal without a collar, with currently valid tax and rabies tags attached thereto.

Should the local animal control officer have reason to believe an animal is creating a nuisance, the officer shall immediately contact the county animal control officer, the sheriff's department or the health department and shall cooperate with such appropriate agency to effect the capture and confinement of the animal to the extent provided by the Randolph County animal control ordinance. The owner of such animal shall have such rights of appeal as provided for by the said county ordinance."

Section 5 Dangerous or Vicious Animals Restrictions

Replace with the following language

5.1 Any dog which has without provocation killed a person or inflicted a severe injury on a person is determined to be dangerous and shall be confined as provided in the county ordinance. For the purpose of this section, a severe injury is any injury requiring medical attention

5.2 Any dog which has killed or inflicted severe injury upon a domestic animal when not on the property of its owner, or which has approached a person when not on its owner's property in a vicious or threatening manner or in an apparent attitude of attack is determined dangerous and shall be confined as provided by the county ordinances

5.3 In the event an animal is determined to be dangerous, the local animal control officer shall immediately notify the county animal control officer, the sheriff's department or the health department and shall cooperate fully with such person or agency to effect the capture and confinement of such animal. The owner of such animal shall have all rights of appeal as set out in the Randolph County Animal Control Ordinance."

5.4 Existing section is amended by adding the word "local" before "animal control officer" in the last sentence of subsection (a)

ARTICLE IV is further amended by adding the following language:

"5.5 It is a violation of this ordinance to leave any animal which has been determined to be dangerous unattended on the owner's property unless the animal is confined indoors, in a securely enclosed and locked pen, or in another structure designed to restrain the animal

Further, it is a violation of this ordinance to permit a dangerous animal to go beyond the owner's property unless the animal is leashed and muzzled or is otherwise securely restrained and muzzled

#8 5 6 Should the owner of an animal which has been determined to be dangerous transfer ownership of the animal to another person, the owner shall provide written notice to the local animal control officer and to the sheriff as required by county ordinance of the new owner's name and address and shall inform the new owner of the animal's dangerous propensities and the methods of control prescribed by this ordinance."

Chapter 67

Dogs

Article	Section
1. Owner's Liability.	67-1
2. Dangerous Dogs.	67-4.1
3. License Taxes on Dogs.	67-5
4. Special License Tax on Dogs.	67-19
5. Guide Dogs.	67-29
6. Protection of Livestock and Poultry from Ranging Dogs.	67-30

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Ownership Book

Adopted

1. 161002 Section

17-10-02

11-12-02

Owner's Liability

Section

- 67-1. Liability for injury to livestock or fowls.
- 67-2. Permitting bitch at large.
- 67-3. Sheep-killing dogs to be killed.
- 67-4. Failing to kill mad dog.

§ 67-1. Liability for injury to livestock or fowls

If any dog, not being at the time on the premises of the owner or person having charge thereof, shall kill or injure any livestock or fowls, the owner or person having such dog in charge shall be liable for damages sustained by the injury, killing, or maiming of any livestock, and costs of suit.

Library References

Key Numbers

Animals 81.

Westlaw Key Number Search: 28k81.

Encyclopedias

1 Strong's N.C. Index 4th, Animals, Livestock, or Poultry § 8.

4 Am. Jur. 2d, Animals §§ 94-98

C.J.S. Animals §§ 192, 233 to 234.

Practice References

37 Am. Jur. Proof of Facts 2d 639, Damages for Loss of or Injury to Animal.

Forms

1 Am. Jur. Pleading and Practice Forms, Rev. Animals, Forms 157.1, 159.

Notes of Decisions

Knowledge or notice of vicious propensities 2
Persons liable for injuries 1
Property rights 3
Self defense 4

1. Persons liable for injuries

The owner of premises who, having knowledge of the vicious and dangerous character of a dog owned by his agent, permits the agent to retain him, and allow him to run at large on the premises, is liable for any damage he does to a passer-by. *Harris v. Fisher*, 1894, 20 S.E. 461, 115 N.C. 318, 44 Am.St.Rep. 452. Animals 72

2. Knowledge or notice of vicious propensities

To recover damages for injuries to property committed by a dog, plaintiff must show knowledge by the owner of his malicious propensities. *State v. Smith*, 1911, 72 S.E. 321, 156 N.C. 628. Animals 82

3. Property rights

A dog may be killed in the actual and necessary defense of property attacked by it though the owner did not know of its vicious propensities, and there may have been another mode of defending the property attacked. *State v.*

Smith, 1911, 72 S.E. 321, 156 N.C. 628. Animals 87

A dog is the subject of property, both in the absence of statute and under Revisal 1905, § 3299, making it a misdemeanor to willfully injure or cruelly kill any useful animal, and defining the word "animal" as including every living creature, and the word "cruelly" to include every act causing unjustifiable physical pain or death, so that accused was guilty of the offense of willfully killing a dog, where the dog when killed, was in the street outside of his turkey yard, which was inclosed by an impassable fence and gate, and could have been driven away; the fact that the dog had been in the yard before harassing the turkeys, and his bad habits, being immaterial. *State v. Smith*, 1911, 72 S.E. 321, 156 N.C. 628. Animals 87

4. Self defense

A dog kept on his owner's premises ran at a person, going to the owner's house, but the owner's family called it off, and drove it away. The person attacked shot the dog as it was going away. Held, there was no such necessity for self-defense, as the dog was driven away, as would justify the person attacked in shooting it. *Perry v. Phipps*, 1849, 32 N.C. 259, 51 Am.Dec. 387. Animals 73

§ 67-2. Permitting bitch at large

If any person owning or having any bitch shall knowingly permit her to run at large during the erotic stage of copulation he shall be guilty of a Class 3 misdemeanor.

Amended by Laws 1993, c. 539, § 529; Laws 1994 (1st Ex. Sess.), c. 24, § 14(c), eff. March 26, 1994.

Historical and Statutory Notes

Laws 1993, c. 539, § 1359, provides:

"This act becomes effective October 1, 1994, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes

that would be applicable but for this act remain applicable to those prosecutions." [Amended by Laws 1994, Ex.Sess., c. 24, § 14(c), eff. March 26, 1994.]

Laws 1993, c. 539, was ratified July 24, 1993.

Cross References

Misdemeanor sentencing and punishment, see § 15A-1340.13 et seq.

Library References

Key Numbers

Animals § 49.

Westlaw Key Number Search: 28k49.

4 Am. Jur. 2d, Animals § 63.

C.J.S. Animals § 138.

Encyclopedias

1 Strong's N.C. Index 4th, Animals, Livestock, or Poultry § 18.

Notes of Decisions

In general 1

1. In general

Where owner or keeper of dogs for purpose of sport intentionally sends dogs on land of another or releases dogs with knowledge, actual or

constructive, that they likely will go on lands of another in pursuit of game, in absence of previously obtained permission to use lands, owner or keeper is liable for trespass though he does not go on lands himself, even though dogs entered land in heat of chase of fox. *Pegg v. Gray*, 1954, 82 S.E.2d 757, 240 N.C. 548

§ 67-3. Sheep-killing dogs to be killed

If any person owning or having any dog that kills sheep or other domestic animals, or that kills a human being, upon satisfactory evidence of the same being made before any judge of the district court in the county, and the owner duly notified thereof, shall refuse to kill it, and shall permit such dog to go at liberty, he shall be guilty of a Class 3 misdemeanor, and the dog may be killed by anyone if found going at large.

Amended by Laws 1973, c. 108, § 24; Laws 1977, c. 597; Laws 1993, c. 539, § 530; Laws 1994 (1st Ex. Sess.), c. 24, § 14(c), eff. March 26, 1994.

Historical and Statutory Notes

Laws 1993, c. 539, § 1359, provides:

"This act becomes effective October 1, 1994, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes

that would be applicable but for this act remain applicable to those prosecutions" [Amended by Laws 1994, Ex.Sess., c. 24, § 14(c), eff. March 26, 1994.]

Laws 1993, c. 539, was ratified July 24, 1993

Cross References

Misdemeanor sentencing and punishment, see § 15A-1340.13 et seq.

Library References

Key Numbers

Animals § 73, 84.

Westlaw Key Number Searches: 28k73; 28k84.

4 Am. Jur. 2d, Animals §§ 25, 137.

C.J.S. Animals §§ 202, 285, 290 to 294.

Practice References

13 Am. Jur. Proof of Facts 2d 473, Knowledge of Animal's Vicious Propensities.

37 Am. Jur. Proof of Facts 2d 711, Justifiable Destruction of Animal.

Encyclopedias

1 Strong's N.C. Index 4th, Animals, Livestock, or Poultry §§ 2, 21.

Notes of Decisions

In general 1

1. In general

Fact that defendant was unlawfully shooting at a dog in violation of the cruelty to animals statute did not render the act negligent per se in regard to injury to a bystander nor impose on defendant absolute liability for injury to a bystander. *Belk v. Boyce*, 1964, 138 S.E.2d 789, 263 N.C. 24. Weapons ⇨ 18(1)

In view of fact the cruelty to animals statute is not for protection of human beings, its violation through shooting a firearm at a dog did not impose liability on the shooter for injuries sustained to a nearby person in absence of a showing that the shooter knew, or in the exercise of reasonable care should have known, of injured person's presence in the vicinity. *Belk v. Boyce*, 1964, 138 S.E.2d 789, 263 N.C. 24. Weapons ⇨ 18(1)

Dog may be killed in defense of property attacked by it. *State v. Smith*, 1911, 72 S.E. 321, 156 N.C. 628. Animals ⇨ 45

A dog may be killed in the actual and necessary defense of property attacked by it though the owner did not know of its vicious propensities, and there may have been another mode of defending the property attacked. *State v. Smith*, 1911, 72 S.E. 321, 156 N.C. 628. Animals ⇨ 87

A dog is the subject of property, both in the absence of statute and under Revisal 1905, § 3299, making it a misdemeanor to willfully injure or cruelly kill any useful animal, and defining the word "animal" as including every living creature, and the word "cruelly" to include every act causing unjustifiable physical pain or death, so that accused was guilty of the offense of willfully killing a dog, where the dog, when killed, was in the street outside of his turkey yard, which was inclosed by an impassable fence and gate, and could have been driven away; the fact that the dog had been in the yard before harassing the turkeys, and his bad habits, being immaterial. *State v. Smith*, 1911, 72 S.E. 321, 156 N.C. 628. Animals ⇨ 87

§ 67-4. Failing to kill mad dog

If the owner of any dog shall know, or have good reason to believe, that his dog, or any dog belonging to any person under his control, has been bitten by a mad dog, and shall neglect or refuse immediately to kill the same, he shall forfeit and pay the sum of fifty dollars (\$50.00) to him who will sue therefor; and the offender shall be liable to pay all damages which may be sustained by anyone, in his property or person, by the bite of any such dog, and shall be guilty of a Class 3 misdemeanor.

Amended by Laws 1993, c. 539, § 531; Laws 1994 (1st Ex. Sess.), c. 24, § 14(c), eff. March 26, 1994.

Historical and Statutory Notes

Laws 1993, c. 539, § 1359, provides:
"This act becomes effective October 1, 1994, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes

that would be applicable but for this act remain applicable to those prosecutions." [Amended by Laws 1994, Ex.Sess., c. 24, § 14(c), eff. March 26, 1994.]

Laws 1993, c. 539, was ratified July 24, 1993.

Cross References

Misdemeanor sentencing and punishment, see § 15A-1340.13 et seq.

Library References

Key Numbers

Animals ⇨ 32, 68

Westlaw Key Number Searches: 28k32;
28k68.

Encyclopedias

1 Strong's N.C. Index 4th, Animals, Livestock, or Poultry §§ 8, 21

4 Am. Jur. 2d, Animals §§ 25, 96.

C.J.S. Animals §§ 76, 192 to 193, 199.

Practice References

13 Am. Jur. Proof of Facts 2d 473, Knowledge of Animal's Vicious Propensities.

Notes of Decisions

Damages 3

Destruction of or Injury to property 2

Knowledge 1

Waiver 4

1. Knowledge

To recover damages for injuries to property committed by a dog, plaintiff must show knowledge by the owner of his malicious propensities. *State v. Smith*, 1911, 72 S.E. 321, 156 N.C. 628. *Animals* ⇨ 82

Under chapter 70, Rev.St.N.C., giving a penalty of \$50 against the owner of a dog bitten by another, which he has good reason to believe was made, for neglecting to kill the bitten dog, it is not necessary to prove the biting dog mad in fact, but to show that the owner of the bitten dog had reason to believe he was mad. *Wallace v. Douglas*, 1849, 32 N.C. 79. *Animals* ⇨ 35

2. Destruction of or Injury to property

The entry by plaintiff, armed with a shotgun, and killing plaintiff's dog chained to a stake near the porch, in the presence of plaintiff's wife, and under her protest, was not only a trespass, but a forcible trespass. *Beasley v. Byrum*, 1913, 79 S.E. 270, 163 N.C. 3. *Trespass* ⇨ 7

3. Damages

In an action under Revisal 1905, § 3305, for damages to plaintiff, bitten by defendant's dog, a verdict that defendant was negligent, and that plaintiff contributed thereto, and assessing damages, does not support a recovery. *Holton v. Moore*, 1914, 81 S.E. 779, 165 N.C. 549, *Am. Ann.Cas.* 1915D,246. *Animals* ⇨ 74(9)

A verdict that plaintiff was injured by the negligence of defendant, and that plaintiff contributed thereto, and assessing damages, does not support a recovery unless there is a further finding that defendant by the exercise of ordinary care could have avoided the injury. *Holton v. Moore*, 1914, 81 S.E. 779, 165 N.C. 549, *Am. Ann.Cas.* 1915D,246. *Negligence* ⇨ 142

4. Waiver

A plaintiff who sued for damages from being bitten by a dog of defendant, and who allowed two trials to proceed to verdict without raising the question of the availability of contributory negligence as a defense, could not, on appeal from an adverse judgment, raise the question. *Holton v. Moore*, 1914, 81 S.E. 779, 165 N.C. 549, *Am. Ann.Cas.* 1915D,246. *Appeal And Error* ⇨ 173(13)

ARTICLE 1A

Dangerous Dogs

Section

67-4.1. Definitions and procedures.

67-4.2. Precautions against attacks by dangerous dogs.

67-4.3. Penalty for attacks by dangerous dogs.

67-4.4. Strict liability.

67-4.5. Local ordinances.

§ 67-4.1. Definitions and procedures

(a) As used in this Article, unless the context clearly requires otherwise and except as modified in subsection (b) of this section, the term:

(1) "Dangerous dog" means

a. A dog that:

1. Without provocation has killed or inflicted severe injury on a person; or
2. Is determined by the person or Board designated by the county or municipal authority responsible for animal control to be potentially

dangerous because the dog has engaged in one or more of the behaviors listed in subdivision (2) of this subsection.

- b. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.
- (2) "Potentially dangerous dog" means a dog that the person or Board designated by the county or municipal authority responsible for animal control determines to have:
 - a. Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization; or
 - b. Killed or inflicted severe injury upon a domestic animal when not on the owner's real property; or
 - c. Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.
- (3) "Owner" means any person or legal entity that has a possessory property right in a dog.
- (4) "Owner's real property" means any real property owned or leased by the owner of the dog, but does not include any public right-of-way or a common area of a condominium, apartment complex, or townhouse development.
- (5) "Severe injury" means any physical injury that results in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization.
- (b) The provisions of this Article do not apply to:
 - (1) A dog being used by a law enforcement officer to carry out the law enforcement officer's official duties;
 - (2) A dog being used in a lawful hunt;
 - (3) A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or
 - (4) A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort, was tormenting, abusing, or assaulting the dog, had tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.
- (c) The county or municipal authority responsible for animal control shall designate a person or a Board to be responsible for determining when a dog is a "potentially dangerous dog" and shall designate a separate Board to hear any appeal. The person or Board making the determination that a dog is a "potentially dangerous dog" must notify the owner in writing, giving the reasons for the determination, before the dog may be considered potentially dangerous under this Article. The owner may appeal the determination by filing written objections with the appellate Board within three days. The

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§ 67-4

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Appellate Board shall schedule a hearing within 10 days of the filing of the objections. Any appeal from the final decision of such appellate Board shall be taken to the superior court by filing notice of appeal and a petition for review within 10 days of the final decision of the appellate Board. Appeals from rulings of the appellate Board shall be heard in the superior court division. The appeal shall be heard de novo before a superior court judge sitting in the county in which the appellate Board whose ruling is being appealed is located.

Added by Laws 1989 (Reg. Sess., 1990), c. 1023, § 1.

Library References

Key Numbers

Animals Ⓒ68, 81.
Westlaw Key Number Searches: 28k68;
28k81.

ALR Library

Intentional provocation, contributory or comparative negligence, or assumption of risk as defense to action for injury by dog, 11 A.L.R. 5th 127.
Liability for injuries inflicted by dog on public officer or employee, 74 A.L.R. 4th 1120.
Who "harbors" or "keeps" dog under animal liability statute, 64 A.L.R. 4th 963.
Modern status of rule of absolute or strict liability for dog bite, 51 A.L.R. 4th 446.
Liability of owner of dog known by him to be vicious for injuries to trespasser, 64 A.L.R. 3d 1039.

Encyclopedias

1 Strong's N.C. Index 4th, Animals, Livestock, or Poultry §§ 6, 8, 9.
4 Am. Jur. 2d, Animals §§ 23, 24, 40, 95.
C.J.S. Animals §§ 192 to 193, 199, 233 to 234.

Practice References

2 Am. Jur. Trials 1, Investigating Particular Civil Actions.

Practice References

1 Am. Jur. Proof of Facts 597, Animals.
13 Am. Jur. Proof of Facts 2d 473, Knowledge of Animal's Vicious Propensities.

Forms

1B Am. Jur. Pleading and Practice Forms, Rev, Animals, Forms 131-140, 143-147.

Notes of Decisions

Trial de novo 2
Validity 1

1. Validity

In animal control statute, definition of "potentially dangerous dog" as dog which has "approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack," was not unconstitutionally overbroad; overbreadth doctrine was not applicable because it was designed only to strike down statutes attempting to regulate activity that state is constitutionally forbidden to regulate, and state is not forbidden from regulating animals. *Caswell County v. Hanks*, 1995, 462 S.E.2d 841, 120 N.C.App. 489. Animals Ⓒ4

In animal control statute, definition of "potentially dangerous dog" as dog which has "approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack," was not uncon-

stitutionally vague; statute provided sufficient notice for dog owners to determine what conduct was proscribed. *Caswell County v. Hanks*, 1995, 462 S.E.2d 841, 120 N.C.App. 489. Animals Ⓒ4

2. Trial de novo

Trial court was required by statute to conduct de novo hearing, not just de novo review, regarding animal control board's determination that dog was "potentially dangerous dog" under animal control statute; language of statute was mandatory, providing that appeal from animal control board to superior court "shall be heard de novo," requiring superior court to hear case on its merits from beginning to end as if no hearing had been held by animal control board and without any presumption in favor of board's decision. *Caswell County v. Hanks*, 1995, 462 S.E.2d 841, 120 N.C.App. 489. Administrative Law And Procedure Ⓒ747; Animals 4

§ 67-4.2. Precautions against attacks by dangerous dogs

(a) It is unlawful for an owner to:

- (1) Leave a dangerous dog unattended on the owner's real property unless the dog is confined indoors, in a securely enclosed and locked pen, or in another structure designed to restrain the dog;
 - (2) Permit a dangerous dog to go beyond the owner's real property unless the dog is leashed and muzzled or is otherwise securely restrained and muzzled.
- (b) If the owner of a dangerous dog transfers ownership or possession of the dog to another person (as defined in G.S. 12-3(6)), the owner shall provide written notice to:
- (1) The authority that made the determination under this Article, stating the name and address of the new owner or possessor of the dog; and
 - (2) The person taking ownership or possession of the dog, specifying the dog's dangerous behavior and the authority's determination.
- (c) Violation of this section is a Class 3 misdemeanor.

Added by Laws 1989 (Reg. Sess., 1990), c. 1023, § 1. Amended by Laws 1993, c. 539, § 532; Laws 1994 (1st Ex. Sess.), c. 24, § 14(c), eff. March 26, 1994.

Historical and Statutory Notes

Laws 1993, c. 539, § 1359, provides:
 "This act becomes effective October 1, 1994, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes

that would be applicable but for this act remain applicable to those prosecutions." [Amended by Laws 1994, Ex.Sess., c. 24, § 14(c), eff. March 26, 1994.]

Laws 1993, c. 539, was ratified July 24, 1993.

Cross References

Misdemeanor sentencing and punishment, see § 15A-1340.13 et seq.

Library References

Key Numbers

Animals ⊕ 68, 81.
 Westlaw Key Number Searches: 28k68;
 28k81

ALR Library

Intentional provocation, contributory or comparative negligence, or assumption of risk as defense to action for injury by dog, 11 A.L.R. 5th 127.

Liability for injuries inflicted by dog on public officer or employee, 74 A.L.R. 4th 1120.
 Who "harbors" or "keeps" dog under animal liability statute, 64 A.L.R. 4th 963.

Modern status of rule of absolute or strict liability for dog bite, 51 A.L.R. 4th 446.

Liability of owner of dog known by him to be vicious for injuries to trespasser, 64 A.L.R. 3d 1039.

Encyclopedias

1 Strong's N.C. Index 4th, Animals, Livestock, or Poultry §§ 6, 8, 9.
 4 Am. Jur. 2d, Animals §§ 23, 24, 40, 95.
 C.J.S. Animals §§ 192 to 193, 199, 233 to 234

Practice References

2 Am. Jur. Trials 1, Investigating Particular Civil Actions.

Practice References

1 Am. Jur. Proof of Facts 597, Animals.
 13 Am. Jur. Proof of Facts 2d 473, Knowledge of Animal's Vicious Propensities

Forms

1B Am. Jur. Pleading and Practice Forms, Rev, Animals, Forms 131-140, 143-147

§ 67-4.3. Penalty for attacks by dangerous dogs

The owner of a dangerous dog that attacks a person and causes physical injuries requiring medical treatment in excess of one hundred dollars (\$100.00) shall be guilty of a Class 1 misdemeanor.

Added by Laws 1989 (Reg. Sess., 1990), c. 1023, § 1. Amended by Laws 1993, c. 539, § 533; Laws 1994 (1st Ex. Sess.), c. 24, § 14(c), eff. March 26, 1994.

Historical and Statutory Notes

Laws 1993, c. 539, § 1359, provides:

"This act becomes effective October 1, 1994, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes

that would be applicable but for this act remain applicable to those prosecutions." [Amended by Laws 1994, Ex.Sess., c. 24, § 14(c), eff. March 26, 1994.]

Laws 1993, c. 539, was ratified July 24, 1993.

Cross References

Misdemeanor sentencing and punishment, see § 15A-1340.13 et seq.

Library References**Key Numbers**

Animals §75, 86.

Westlaw Key Number Searches: 28k75; 28k86.

ALR Library

Intentional provocation, contributory or comparative negligence, or assumption of risk as defense to action for injury by dog, 11 A.L.R. 5th 127.

Liability for injuries inflicted by dog on public officer or employee, 74 A.L.R. 4th 1120.

Who "harbors" or "keeps" dog under animal liability statute, 64 A.L.R. 4th 963.

Modern status of rule of absolute or strict liability for dog bite, 51 A.L.R. 4th 446.

Liability of owner of dog known by him to be vicious for injuries to trespasser, 64 A.L.R. 3d 1039.

Encyclopedias

1 Strong's N.C. Index 4th, Animals, Livestock, or Poultry §§ 6, 8, 9.

4 Am. Jur. 2d, Animals §§ 23, 24, 40, 95.

C.J.S. Animals § 202.

Practice References

2 Am. Jur. Trials 1, Investigating Particular Civil Actions.

Practice References

1 Am. Jur. Proof of Facts 597, Animals.

13 Am. Jur. Proof of Facts 2d 473, Knowledge of Animal's Vicious Propensities.

Forms

1B Am. Jur. Pleading and Practice Forms, Rev. Animals, Forms 131-140, 143-147.

§ 67-4.4. Strict liability

The owner of a dangerous dog shall be strictly liable in civil damages for any injuries or property damage the dog inflicts upon a person, his property, or another animal.

Added by Laws 1989 (Reg. Sess., 1990), c. 1023, § 1.

Law Review and Journal Commentaries

Judicial Boilerplate Language as Torts Decisional Litany: Four Problem Areas in North Carolina. Charles E. Daye, 18 Campbell L.Rev. 359, (1996).

Library References**ALR Library**

Intentional provocation, contributory or comparative negligence, or assumption of risk

as defense to action for injury by dog, 11 A.L.R. 5th 127.

§ 67-4.4

DOGS

Modern status of rule of absolute or strict liability for dog bite, 51 A.L.R. 4th 446

4 Am. Jur. 2d, Animals §§ 85-98, 105-107, 110, 123-125.

Encyclopedias

1 Strong's N.C. Index 4th, Animals, Livestock, or Poultry §§ 6, 8.

Practice References

13 Am. Jur. Proof of Facts 2d 473, Knowledge of Animal's Vicious Propensities.

§ 67-4.5. Local ordinances

Nothing in this Article shall be construed to prevent a city or county from adopting or enforcing its own program for control of dangerous dogs.

Added by Laws 1989 (Reg. Sess., 1990), c. 1023, § 1.

Library References

ALR Library

Intentional provocation, contributory or comparative negligence, or assumption of risk as defense to action for injury by dog, 11 A.L.R. 5th 127.

Encyclopedias

1 Strong's N.C. Index 4th, Animals, Livestock, or Poultry § 27.
4 Am. Jur. 2d, Animals §§ 21, 22.

ARTICLE 2

License Taxes on Dogs

Section

67-5 to 67-11. Repealed.

67-12. Permitting dogs to run at large at night; penalty; liability for damage.

67-13. Repealed.

67-14. Mad dogs, dogs killing sheep, etc., may be killed.

67-14.1. Dogs injuring deer or bear on wildlife management area may be killed; impounding unmuzzled dogs running at large.

67-15. Repealed.

67-16. Failure to discharge duties imposed under this Article.

67-17. Deleted.

67-18. Application of Article.

§§ 67-5 to 67-11. Repealed by Laws 1973, c. 822, § 6

Historical and Statutory Notes

The repealed sections pertained to license taxes on dogs.

§ 67-12. Permitting dogs to run at large at night; penalty; liability for damage

No person shall allow his dog over six months old to run at large in the nighttime unaccompanied by the owner or by some member of the owner's family, or some other person by the owner's permission. Any person intentionally, knowingly, and willfully violating this section shall be guilty of a Class 3 misdemeanor, and shall also be liable in damages to any person injured or suffering loss to his property or chattels.

Amended by Laws 1993, c. 539, § 534; Laws 1994 (1st Ex. Sess.), c. 24, § 14(c), eff. March 26, 1994.

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Historical and Statutory Notes

Laws 1993, c. 539, § 1359, provides:

"This act becomes effective October 1, 1994, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes

that would be applicable but for this act remain applicable to those prosecutions." [Amended by Laws 1994, Ex.Sess., c. 24, § 14(c), eff. March 26, 1994.]

Laws 1993, c. 539, was ratified July 24, 1993.

Cross References

Misdemeanor sentencing and punishment, see § 15A-1340.13 et seq.

Library References

Key Numbers

Animals Ⓒ49, 53.

Westlaw Key Number Searches: 28k49; 28k53.

C.J.S. Animals §§ 138, 183 to 184, 243.

Practice References

33 Am. Jur. Trials 195, Pit Bull Dog Attack Litigation.

Encyclopedias

1 Strong's N.C. Index 4th, Animals, Livestock, or Poultry §§ 8, 18, 26.

41 Am. Jur. 2d, Animals §§ 23, 112 et seq.

Practice References

2 Am. Jur. Proof of Facts 3d 393, Landlord's Liability for Injury by Tenant's Dog.

Notes of Decisions

In general 1

Intent 2

1. In general

A town, invested with police powers, may exercise such powers to protect the comfort and safety of citizens generally, and may, by ordinance, prohibit the running at large within the town of unmuzzled dogs, and may authorize police officers to kill unmuzzled dogs found at large. *State v. Clifton*, 1910, 67 S.E. 751, 152 N.C. 800. Municipal Corporations Ⓒ 604

A police officer, who in good faith and under color of an ordinance kills an unmuzzled dog by the administration of poison, does not violate the statute prohibiting the willful killing of animals. *State v. Clifton*, 1910, 67 S.E. 751, 152 N.C. 800. Animals Ⓒ 52

2. Intent

The word "willful" in a criminal statute means not only designedly, but with a bad purpose (quoting *Words and Phrases*, vol. 8, p. 7469). *State v. Clifton*, 1910, 67 S.E. 751, 152 N.C. 800. Criminal Law Ⓒ 20

§ 67-13. Repealed by Laws 1973, c. 822, § 6

Historical and Statutory Notes

The repealed section provided that proceeds of the tax go to the school fund with certain exceptions.

§ 67-14. Mad dogs, dogs killing sheep, etc., may be killed

Any person may kill any mad dog, and also any dog if he is killing sheep, cattle, hogs, goats, or poultry.

Library References

Key Numbers

Animals Ⓒ32, 84.

Westlaw Key Number Searches: 28k32; 28k84.

ALR Library

Civil liability of landowner for killing or injuring trespassing dog, 15 A.L.R. 2d 578.

§ 67-14

DOGS

Encyclopedias

1 Strong's N.C. Index 4th, Animals, Livestock, Poultry §§ 2, 26.

4 Am. Jur. 2d, Animals § 25.

C.J.S. Animals §§ 76, 202, 291 to 292, 294.

Notes of Decisions

In general 1

1. In general

Fact that defendant was unlawfully shooting at a dog in violation of the cruelty to animals statute did not render the act negligent per se in regard to injury to a bystander nor impose on defendant absolute liability for injury to a bystander. *Belk v. Boyce*, 1964, 138 S.E.2d 789, 263 N.C. 24. Weapons ⇨ 18(1)

In view of fact the cruelty to animals statute is not for protection of human beings, its violation through shooting a firearm at a dog did not

impose liability on the shooter for injuries sustained to a nearby person in absence of a showing that the shooter knew, or in the exercise of reasonable care should have known, of injured person's presence in the vicinity. *Belk v. Boyce*, 1964, 138 S.E.2d 789, 263 N.C. 24. Weapons ⇨ 18(1)

Persons having possession and control over dangerous instrumentalities are under a duty to use a high degree of care commensurate with the dangerous character of the article to prevent injury to others, and such rule applies to firearms. *Belk v. Boyce*, 1964, 138 S.E.2d 789, 263 N.C. 24. Negligence ⇨ 20; Weapons 18(1)

§ 67-14.1. Dogs injuring deer or bear on wildlife management area may be killed; impounding unmuzzled dogs running at large

(a) Any dog which trails, runs, injures or kills any deer or bear on any wildlife refuge, sanctuary or management area, now or hereafter so designated and managed by the Wildlife Resources Commission, during the closed season for hunting with dogs on such refuge or management area, is hereby declared to be a public nuisance, and any wildlife protector or other duly authorized agent or employee of the Wildlife Resources Commission may destroy, by humane method, any dog discovered trailing, running, injuring or killing any deer or bear in any such area during the closed season therein for hunting such game with dogs, without incurring liability by reason of his act in conformity with this section.

(b) Any unmuzzled dog running at large upon any wildlife refuge, sanctuary, or management area, when unaccompanied by any person having such dog in charge, shall be seized and impounded by any wildlife protector, or other duly authorized agent or employee of the Wildlife Resources Commission.

(c) The person impounding such dog shall cause a notice to be published at least once a week for two successive weeks in some newspaper published in the county wherein the dog was taken, or if none is published therein, in some newspaper having general circulation in the county. Such notice shall set forth a description of the dog, the place where it is impounded, and that the dog will be destroyed if not claimed and payment made for the advertisement, a catch fee of one dollar (\$1.00) and the boarding, computed at the rate of fifty cents (50¢) per day, while impounded, by a certain date which date shall be not less than 15 days after the publication of the first notice. A similar notice shall be posted at the courthouse door.

(d) The owner of the dog, or his agent, may recover such dog upon payment of the cost of the publication of the notices hereinbefore described together with a catch fee of one dollar (\$1.00) and the expense, computed at the rate of fifty cents (50¢) per day, incurred while impounding and boarding the dog.

(e) If any impounded dog is not recovered by the owner within 15 days after the publication of the first notice of the impounding, the dog may be destroyed in a humane manner by any wildlife protector or other duly authorized agent or employee of the North Carolina Wildlife Resources Commission, and no liability shall attach to any person acting in accordance with this section.

Added by Laws 1951, c. 1021, § 1.

Library References

Key Numbers

Animals § 51, 84.

Westlaw Key Number Searches: 28k51; 28k84.

Encyclopedias

Strong's N.C. Index 4th, Animals, Livestock, or Poultry §§ 2, 26.

4 Am. Jur. 2d, Animals §§ 25, 112 et seq.

C.J.S. Animals §§ 159 to 163, 202, 291 to 292, 294 to 295.

§ 67-15. Repealed by Laws 1983, c. 35, § 2

Historical and Statutory Notes

The repealed section, declared that dogs that are listed constitute personal property and provided for larceny thereof.

§ 67-16. Failure to discharge duties imposed under this Article

Any person failing to discharge any duty imposed upon him under this Article shall be guilty of a Class 3 misdemeanor.

Amended by Laws 1993, c. 539, § 535; Laws 1994 (1st Ex. Sess.), c. 24, § 14(c), eff. March 26, 1994.

Historical and Statutory Notes

Laws 1993, c. 539, § 1359, provides:

"This act becomes effective October 1, 1994, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes

that would be applicable but for this act remain applicable to those prosecutions." [Amended by Laws 1994, Ex.Sess., c. 24, § 14(c), eff. March 26, 1994.]

Laws 1993, c. 539, was ratified July 24, 1993.

Cross References

Misdemeanor sentencing and punishment, see § 15A-1340.13 et seq.

Library References

Key Numbers

Animals § 4.

Westlaw Key Number Search: 28k4.

Encyclopedias

Strong's N.C. Index 4th, Animals, Livestock, or Poultry §§ 21, 26.

C.J.S. Animals §§ 11 to 14, 287 to 289.

§ 67-17
Deleted

DOGS

§ 67-17. Deleted

Historical and Statutory Notes

The section was deleted as local legislation as contemplated in § 67.18. See *McAlister v. Yancey County*, 1937, 193 S.E.141, 212 N.C. 208.

§ 67-18. Application of Article

This Article, G.S. 67-5 to 67-18, inclusive, is hereby made applicable to every county in the State of North Carolina, notwithstanding any provisions in local, special or private acts exempting any county or any township or municipality from the provisions of the same enacted at any General Assembly commencing at the General Assembly of 1919 and going through the General Assembly of 1929.

Library References

Encyclopedias

1 Strong's N.C. Index 4th, Animals, Livestock, or Poultry §§ 21, 26.

ARTICLE 3

Special License Tax on Dogs

§§ 67-19 to 67-28. Repealed by Laws 1973 c. 822, § 6

Historical and Statutory Notes

The repealed article permitted submission of assessment of a special additional license tax to county voters.

ARTICLE 4

Guide Dogs

§ 67-29. Repealed Laws by 1973, c. 493, § 2

Historical and Statutory Notes

The repealed section, providing for guide dogs accompanying blind persons on conveyances, was derived from Laws 1943, c. 111; Laws 1963, c. 61. See, now, § 168-4.2 et seq.

ARTICLE 5

Protection of Livestock and Poultry from Ranging Dogs

Section

67-30. Appointment of animal control officers authorized; salary, etc.

DOGS

§ 67-31

Section

- 67-31. Powers and duties of dog warden.
- 67-32. Repealed.
- 67-33 to 67-35. Repealed.
- 67-36. Article supplements existing laws.

§ 67-30. Appointment of animal control officers authorized; salary, etc.

A county may appoint one or more animal control officers and may fix their salaries, allowances, and expenses.

Added by Laws 1951, c. 931, § 1. Amended by Laws 1955, c. 1333, § 1; Laws 1957, c. 81; Laws 1957, c. 840; Laws 1973, c. 822, § 6.

Historical and Statutory Notes

Local Modification

Cabarrus County
Forsyth County

Laws 1979, c. 119.
Laws 1967, c. 587, § 2.

Franklin County
Granville County
Rowan County

Laws 1953, c. 1005.
Laws 1965, c. 464, § 2.
Laws 1985, c. 872.

Library References

Key Numbers

Animals ☞ 4, 105.

Westlaw Key Number Searches: 28k4;
28k105.

4 Am. Jur. 2d, Animals § 41.

C.J.S. Animals §§ 11 to 14, 287 to 289, 334,
338 to 341.

Encyclopedias

1 Strong's N.C. Index 4th, Animals, Livestock,
or Poultry §§ 21, 26.

§ 67-31. Powers and duties of dog warden

The powers and duties of the county dog warden shall be as follows:

- (1) He shall have the power of arrest and be responsible for the enforcement within his county of all public and public-local laws pertaining to the ownership and control of dogs, and shall cooperate with all other law-enforcement officers operating within the county in fulfilling this responsibility.
- (2) In those counties having a rabies control officer, the county dog warden shall act as assistant to the rabies control officer, working under the supervision of the county health department, to collect the dog tax. In those counties having no rabies control officer, the county dog warden shall serve as rabies control officer.

Amended by Laws 1951, c. 931, § 2.

Historical and Statutory Notes

Local Modification

Chowan County
Cumberland County
Dare County

Laws 1983, c. 166.
Laws 1967, c. 814.
Laws 1983, c. 166.

Edgecombe County
Orange County
Pasquotank County

Laws 1983, c. 683.
Laws 1953, c. 367.
Laws 1983, c. 166.

Library References

Key Numbers

Animals ☞ 4

Westlaw Key Number Search: 28k4.

Encyclopedias

1 Strong's N.C. Index 4th, Animals, Livestock,
or Poultry §§ 21, 26.

§ 67-31

DOGS

2 Strong's N.C. Index 4th, Arrest and Bail C.J.S. Animals §§ 11 to 14, 287 to 289.
§§ 52, 53.
4 Am. Jur. 2d, Animals § 41.

§ 67-32. Repealed by Laws 1983, c. 891, § 9, eff. Jan. 1, 1984

Historical and Statutory Notes

The repealed section, providing for county pounds, was derived from Laws 1951, c. 931, § 3; Laws 1955, c. 1333, § 2.

§§ 67-33 to 67-35. Repealed by Laws 1973, c. 822, § 6

§ 67-36. Article supplements existing laws

The provisions of this Article are to be construed as supplementing and not repealing existing State laws pertaining to the ownership, taxation, and control of dogs.

Added by Laws 1951, c. 931, § 7.

Historical and Statutory Notes

Local Modification
Chowan County

Laws 1983, c. 166.

Dare County
Pasquotank County

Laws 1983, c. 166.
Laws 1983, c. 166.

Library References

Encyclopedias

1 Strong's N.C. Index 4th, Animals, Livestock,
or Poultry § 21.

4 Am. Jur. 2d, Animals § 41.

**Minutes of a Public Hearing
and Regular Meeting
of the Franklinville Board of Commissioners
Held on November 12, 2002
7:30 p.m.**

Present

Mayor	Mac Whatley
Clerk	Nancy Granger
Deputy Clerk	Vickie Burgess
Commissioners	A.C. Hurley, Paul Dunn, Jeff Thomas, Jerry Grazier and Randy Pugh
Planning Board	Priscilla Dunn, Sammy Jones and Cookie Smith
Media	Kerry Kessler
Employees	L.A. Craven, Danny Duncan and Mark Grose,
Visitors	John Whitt, Joel Williamson, John Bryant, Charles Wood, Brian Lewis, Tim Benbow, Perry Conner, Lee Smith, Joe Barbarito and Bettina Morarity

02-176

Public Hearing LDO

The Mayor called the meeting to order at the appointed time and began the Public Hearing. Mayor Whatley explained that the purpose of the Hearing was to discuss the proposed Land Development Ordinance, as advertised and discussed in public hearings and regular meetings for the past five years. Mayor Whatley added that a community plan developed in 2001 reflects issues addressed in the proposed LDO, such as overlay, historic and park districts, as well as zoning and subdivision ordinances. Copies of the proposed ordinance are available for purchase at the Town Hall for \$16.75, the cost of printing. Mrs. Dunn again noted that the ordinance is easier to interpret than the current ordinance, and that the new plan outlined a twenty-year goal for the Town and surrounding area. According to Mayor Whatley the current sign ordinance contains over ten pages, as opposed to the proposed four-page sign ordinance. Sammy Jones noted that the new plan would settle many issues not addressed in the current ordinance, such as development of large land tracts. According to Mrs. Dunn, amendments to the new plan could be made at any time after the plan is adopted. Mayor Whatley stated that the goal of the new plan was to put all requirements in writing, so people will not be obligated to attend meetings to find out what they can or cannot do or negotiate their plans with the Board. Mayor Whatley again explained the maps prepared by the PTCOG. The Mayor

then asked for comments or concerns from all present. John Whitt was told that zoning previously approved for his Acorn Ridge property would not change. Mrs. Dunn stated that had the proposed ordinance been in effect at the time Mr. Whitt applied for zoning, the process would have taken much less time. Mayor Whatley explained that the proposed plan would outline the step by step process for obtaining zoning approval and permits, and would eliminate the need for numerous meetings regarding zoning issues. Commissioner Dunn moved the Public Hearing be adjourned, and was seconded by Commissioner Hurley. The motion carried unanimously.

02-177

Regular Meeting

The Mayor called the regular November Meeting to order, following adjournment of the Public Hearing.

02-178

Minutes/Finance Report

Commissioner Hurley made a motion to approve minutes of the October Meeting and financial statement. Commissioner Dunn seconded the motion, which passed by unanimous vote. A copy of the financial statement is attached.

02-179

Budget Amendments

Commissioner Grazier made a motion to approve Administrative Budget Amendments, and was seconded by Commissioner Hurley. The motion passed unanimously. Copies are attached.

02-180

Capitol Expense Threshold

Commissioner Grazier made a motion to increase the capitol expense threshold from \$250 to \$1,000. The motion was seconded by Commissioner Hurley and passed by unanimous vote.

02-181

Employee Christmas Bonus'

Mayor Whatley asked the Board's recommendation regarding Christmas Bonus' for employees. The Clerk stated that in past years, employees had received 1% with a minimum of \$25. The Clerk added that according to the clerknet Ramseur employees would receive 3%. Commissioner Grazier asked the Board to delay their decision on the matter until the December Meeting, in order for him to meet with the Mayor and make a determination.

02-182

Christmas Party

The Clerk invited the Town Board, Planning Board and employees to attend the 4th Annual Christmas Party, Sunday, December 8, 2002 at 6:00 p.m. at the Granger House.

02-183**Flag**

According to the Clerk, several disparaging comments were received regarding placement of flags on library windows in recognition of Memorial Day, and the Clerk asked the Board to consider purchasing a flag pole for the park. Mayor Whatley stated that there was already a flagpole at the Fire Station, and there was no need for an additional flag. Commissioner Grazier then suggested placing a pole on the east end of Town, possibly at the old cemetery on the corner of Main and Patterson Grove Road, along with a, "nice Welcome to Franklinville" sign. Mrs. Smith stated that she would like to see a similar sign and flag on the west end of Town. Commissioner Grazier was asked by the Mayor to bring the matter before the Board next spring.

02-184**Parade**

Mrs. Dunn asked the Mayor and Commissioners to ride in the Christmas Parade, which is to be held on December 7th at 10:30 a.m. Participants are asked to line up at the First Baptist Church on Academy Street.

02-185**Land Development Ordinance**

Mayor Whatley asked the Board for their decision regarding adoption of the proposed Land Development Ordinance, noting that the plan had been written over a five year period, with input from State agencies, committees made up of local citizens, the Planning Board and the Board of Commissioners. The Clerk noted that proper advertisements had been published, and copies had been available for inspection or purchase for thirty days. Mrs. Dunn added that there had been more Public Hearings than are required in order to adopt the ordinance. Commissioner Grazier stated that he had questions about the ordinance, and made a motion to table the decision until the December Meeting. Mr. Jones stated that he would like to meet with Mayor Whatley and Paul Kron of the PTCOG to go over a few specific issues prior to the December Meeting. Commissioner Grazier asked to be included in the meeting. The Clerk was asked to schedule the meeting. Mayor Whatley stated that the ordinance would only have to be adopted at one meeting if the vote was unanimous. Commissioner Pugh seconded Commissioner Grazier's motion to delay the vote, which passed unanimously.

02-186**FFPA**

Commissioner Grazier stated that there were no problems with the Fire Department's rating.

02-187**Animal Control**

Mayor Whatley read a copy of a North Carolina G.S. 67-4.1, regarding vicious dogs. Mayor Whatley explained that in order for the Randolph County Health Department to pick up vicious animals, the Board must adopt the Statute. The statute would be added to our current ordinance.

Joe Barbarito, who lives on Julian Road, stated that his son had been attacked by a neighbor's dog on several occasions. When he called the Randolph County Health Department, he was informed that they could not come inside Franklinville. The last time the dog attacked, he shot the dog.

The Clerk and Mrs. Burgess informed the Board that animal complaints are received daily. Both agreed that County enforcement of NCG.S. 67-4.1 would help, but added that the majority of complaints received concerned nuisance animals running at large.

Commissioner Grazier made a motion to adopt NCGS 67-4.1. Commissioner Hurley seconded the motion, which passed by unanimous vote. A copy is attached. The Clerk was asked to notify Randolph County.

02-188

Smart Start

Mrs. Burgess noted that Amanda Ratliff had been hired by the Smart Start Program, and was working out of the Sheriff's Department office next to the library. L.A. Craven noted that Ms. Ratliff was organizing a Story Time, to be held each Wednesday morning at the library.

02-189

Park Equipment

The Clerk noted that playground equipment had been delivered, and was being installed. Commissioner Thomas gave the Clerk a catalogue from a Burlington company, and explained that the company spokesman did not recommend plastic borders around the equipment.

02-190

Athletic Association

No one was present to report for the Athletic Association. Mrs. Burgess stated that she had been contacted by Mrs. Davenport, who would like to meet with Commissioner Thomas to go over Association issues. The Clerk noted that a breakdown of cuts for association expenses was included in the agenda packet, and is attached.

02-191

Library Roof/Water Problems

Mark Grose stated that the area around the library chimney is causing the most leakage. Mr. Grose added that Craig Parrish was asked to look at the problem, but he had not heard from him. Commissioner Thomas stated that he had looked at the area, and that he thought the chimney should be torn out and roofed over, and added that if Mr. Parrish was not going to do the repair he could find someone. Mr. Grose was asked to get a price on tearing the chimney out and repairing the roof. Commissioner Thomas noted that water was also blowing into the Town hall, between bricks in places where mortar is missing. Commissioner Thomas made a motion to box in the building and install vinyl siding, at a cost of \$2,265. Commissioner Thomas also suggested a mural for the library

side of the building. The Clerk stated that during winter months walls stay damp from water seeping through bricks and a leak has developed over the computer in the inner office. There was no second.

02-192

Library Thrift Store - 1

L.A. Craven noted that the rotted ceiling beam had been replaced with the assistance of Randolph County Working Inmates. Mrs. Craven stressed the need for heat in the building. Commissioner Pugh stated that the heater was ready to be installed. Mrs. Craven also asked about a phone line, and was informed by Mr. Grose that the building had phone jacks.

02-193

Water/Sewer Connections

Mayor Whatley presented a letter, which will be sent to property owners who have property for sale where water and/or sewer service is available, making the owner aware that connections are mandatory. A copy is attached.

02-194

Sewer Plant Water Line

Mark Grose presented an oral bid to the Board of \$17,090 from US Filters for an eight-inch water line, down the existing roadbed to the sewer plant. The bid includes the ditch, tap, pipe and valves, but not the installation. The cost without digging would be \$10,615. Mayor Whatley was asked to furnish Mr. Grose with the actual footage of the line.

02-195

Streets -1

Brian Lewis of Weatherly Drive, stated that a drain had been filled in when Weatherly Drive was widened, and provided photos of standing water. Mr. Grose explained that they had found the drain during the project, but that it was stopped up, and so they thought it was not working. Mr. Lewis noted that there was no problem with standing water until the drain was filled in. Commissioner Hurley made a motion to repair the drain, and was seconded by Commissioner Thomas. The motion passed unanimously.

02-196

Library Thrift Store - 2

Commissioner Grazier stated that the Thrift Shop volunteers will be pursuing private grants after year-end, and explained that grants could not be solicited without approved plans for use of the building. Mayor Whatley stated that Jim Raines, from Ramseur could be interested in assisting with the plans.

02-197

Streets - 2

Brian Lewis asked about plans for completion of the Weatherly Drive paving project. Commissioner Grazier informed Mr. Lewis that the job would be completed in spring. Mr. Lewis stated that he had been informed by Commissioner Grazier that the street

would be completed when Powell Bill Funds were received. Commissioner Grazier stated that he did not say, "immediately" after the funds were received, and waiting until spring would allow potholes on other streets to be repaired at the same time. Mayor Whatley informed Mr. Lewis that the project would be completed "as soon as spring gets here", and asked Commissioners to go ahead and have the work scheduled. Mr. Lewis stated the concrete end of his drive was now a part of the actual road, and that Waugh pavers had informed him that the new pavement would not hold to the existing concrete drive. Therefore it was left unpaved.

Commissioner Dunn noted that Allred Street repairs were incomplete.

02-198

Community Appearance

Perry Conner addressed the Board regarding a volunteer committee to improve the appearance of the Town, noting that current conditions do not present a nice clean cut image, nor promote civic pride. Mayor Whatley directed Mr. Conner to discuss the issue with Priscilla Dunn, and any remaining members of the Franklinville Improvement Committee, Inc.

02-199

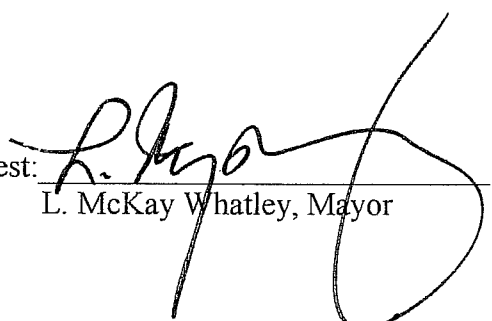
Adjourn

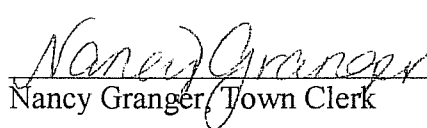
There being no further business to discuss, Commissioner Dunn made a motion to adjourn the meeting. Commissioner Hurley seconded the motion and the meeting was so adjourned.

(SEAL)

Respectfully submitted,

Attest:


L. McKay Whatley, Mayor


Nancy Granger, Town Clerk

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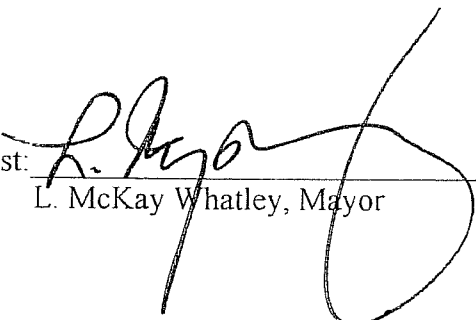
Adjourn

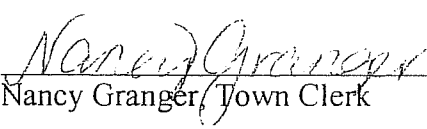
There being no further business to discuss, Commissioner Dunn made a motion to adjourn the meeting. Commissioner Hurley seconded the motion and the meeting was so adjourned.

(SEAL)

Respectfully submitted,

Attest:


L. McKay Whatley, Mayor


Nancy Granger, Town Clerk

Franklinville

North Carolina Board of Commissioners Meeting May 10, 2005

Present

Mayor: Mac Whatley

Clerk: Nancy Granger

Deputy Clark: Lou Ann Neal

Commissioners: Paul Dunn, Jeff Thomas, Perry Conner, Randy Pugh

Employees: L.A. Craven, Danny Duncan, Arnold Allred

Visitors: Rick Granger, Priscilla Dunn, Freddie Davenport, Amanda Ratliff, Barbara Whitt, Vernon McDowell, Larry Brown, Judy Sumner, Carrie Craven

Media: Judy Brenniger

05-94 To Order

The Mayor Called the meeting to order at the appointed time.

05-95 Minutes

Commissioner Conner made a motion to approve the minutes of the April meeting and was seconded by Commissioner Dunn. The motion passed by unanimous vote.

05-96 Financial Report

Commissioner Pugh made a motion to approve the financial report. Commissioner Conner seconded the motion, which passed unanimously. A copy is attached.

05-97 Smart Start

Amanda Ratliff invited all present to attend the June 10th Copperheads game. Proceeds will benefit the Randolph County Partnership for Children, with a portion going to the Franklinville program.

Ms. Ratliff informed the Board that a group of Smart Start parents had attended, "Keep the Promise Day" activities in Raleigh, and spoken with state legislators regarding the importance of the Smart Start Program. Ms. Ratliff displayed photos of the event, and expressed her appreciation to Commissioner Thomas for transportation assistance.

According to Ms. Ratliff, Randleman is beginning a Smart Start Program, which will be modeled after the Franklinville program.

05-98 Athletic Association

Freddie Davenport expressed his concerns about the newspaper coverage of the April Board Meeting. Mr. Davenport asked the Board to provide a contract for him to sign. Mr. Davenport admitted that he had been late in providing insurance forms for the current year and had not provided any insurance forms for the prior year. Commissioner Conner reminded Mr. Davenport that he had failed to turn over bookkeeping duties to the Town, as he agreed to do at the March meeting. Commissioner Thomas stated that the Town had waited many months for certificates of liability coverage and could not allow children to play on Town property without proof of the Association's insurance coverage. Commissioner Thomas added that all contractors working on Town property were required to provide the same proof of liability coverage. The Clerk noted that proof of insurance for softball had not been provided, and the one that was provided for baseball was on an expired policy. The Clerk also noted that Mr. Davenport's adult son had been informed of the situation, and had been asked to have Mr. Davenport call the Town Hall. Mr. Davenport stated that he should have been called by the Clerk. Commissioner Thomas explained that he was over Parks and Recreation, and Mr. Davenport should communicate directly with him. Mayor Whatley informed Mr. Davenport that the Association had not submitted budget requests for the upcoming year. The Mayor provided Mr. Davenport a copy of the last contract the Town had with the Association, and added that a contract should be negotiated each year.

05-99 Barbara Whitt Property

Barbara Whitt addressed the Board regarding a letter she received from the Town, requiring her to tap onto water and sewer services. According to Ms. Whitt, sewer service was not available at the time she purchased her property on Allred Street. After discussion, it was determined that the line was run after her purchase in 2001. Ms. Whitt was informed that connection to water and sewer services would be required when her property is sold. A copy of the letter sent to Ms. Whitt is attached.

05-100 Budget Amendments

The Clerk presented budget amendments to the Board. Commissioner Thomas made a motion to adopt the amendments and was seconded by Commissioner Pugh. The motion passed unanimously. A copy is attached.

05-102 2005-2006 Budget

The Clerk presented a proposed budget for the 2005 – 2006 year of \$767,610.00, and explained comments and increases. Arnold Allred was asked to provide retirement information to Commissioners, prior to the June meeting. Mr. Allred stated that Brian Hicks will become a full-time employee in the new year. Commissioner Dunn made a motion to approve the budget as presented, and to conduct a public hearing prior to the regular board meeting on June 14th to adopt the budget ordinance. Commissioner

Thomas seconded the motion, which passed unanimously. A copy of the approved budget is attached.

05-103 Clark Property on Faith Rock Road

Mayor Whatley stated that he and Arnold had met with State officials, regarding the dam on the lake belonging to John Clark on Faith Rock Road. The Clerk was asked to contact Eric Penkava regarding trapping beavers at the lake.

The Mayor presented a copy of a lease agreement with John Clark for the property. The Mayor will submit a Clean Water Trust Fund Grant prior to June 1, 2005, which would be used to purchase the property.

05-104 Grant Forum

Commissioner Thomas gave a report on a grant forum he attended, which was conducted by Commissioner Elizabeth Dole.

05-105 Vicious Animals

Commissioner Conner made a motion that Arnold Allred be designated as the person who declares animals vicious. Commissioner Dunn seconded the motion, which passed unanimously.

05-106 Water and Sewer

Arnold Allred stated that TTHM test results exceeded allowable limits. Mr. Allred explained that Franklinville has no control over chemicals levels, since the water is treated by Ramseur. Mr. Allred stated that flushing hydrants may help reduce the chlorine. A notice will be sent to customers when the notice is received from the State.

Mr. Allred stated that he had tested fifty-eight hydrants, and working inmates had painted fifty hydrants. Mr. Allred is in the process of locating and repairing water valves.

Mr. Allred noted that he had left messages for Mike Mitchell, stating the cost of connecting his Rose Street property to the sewer line would be approximately \$2,500. A copy of his proposal is attached.

05-107 Meter Tamper Charges

The Clerk presented a list of meter tampering charges. Commissioner Conner made a motion to approve the schedule of charges, and was seconded by Commissioner Thomas. The motion passed unanimously.

05-108 Lee Property Lease Purchase

Mayor Whatley will let Bill Lee know that the Town will begin paying purchase payments in June.

05-109 John Clark Property Lease Agreement

Commissioner Conner made a motion to adopt the lease agreement for the Clark property on Faith Rock Road. Commissioner Thomas seconded the motion, which passed by unanimous vote. A copy is attached.

05-110 Oak Street

Commissioner Conner explained that a mobile home and house belonging to Junior Burks were both connected to the same septic tank on Oak Street. According to the Commissioner the mobile home has been vacant for a number of years, and had become a non-conforming use. Mr. Burks has now rented the mobile home and wants water connected. Commissioner Conner will notify Mr. Burks that the home cannot be occupied, and should be removed.

05-111 Nancy Granger Resignation

The Mayor stated that Nancy Granger's last day would be May 20, 2005. The Clerk will be leaving to take a position in Liberty. The Mayor expressed his appreciation to the Clerk for her service to the Town. Mrs. Granger explained that she was willing to come in during off-hours to assist in training.

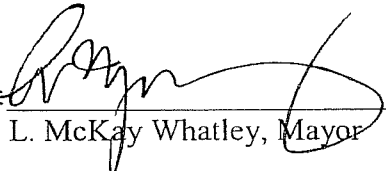
05-112 Adjourn

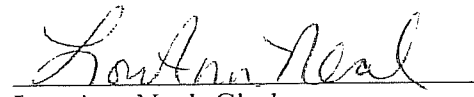
There being no further business to discuss, Commissioner Dunn made a motion to adjourn. Commissioner Thomas seconded the motion and the meeting was so adjourned.

(SEAL)

Respectfully submitted,

Attest:


L. McKay Whatley, Mayor


Lou Ann Neal, Clerk

CHAPTER 13
COMMUNITY IMPROVEMENT

Article I

BIRD SANCTUARY

Section 13-1 Establishment of a Bird Sanctuary.

The Town of Franklinville is designated by the Board as a Bird Sanctuary.

Section 13-2 Birds and Wild Fowl Protected.

No person shall trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests. Provided, however, if starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the County Health Authorities, then in such event the Health Authorities shall meet with representatives of the Audubon Society, Bird Club, Garden Club or Humane Society, or as many of the clubs as are found to exist in the Town of Franklinville, after having given the representatives of clubs, at least three days actual notice of the time and place of the meeting. If as a result of the meeting no satisfactory alternative is found to abate such nuisance, then the birds may be destroyed in such numbers and in such manner as is deemed advisable by the health authorities under supervision of the Chief of Police of the Town of Franklinville.

Section 13-3 Penalties.

Anyone violating the provisions of this ordinance shall be punishable by a fine of not more than \$100.00 or imprisonment not exceeding 30 days.

Article II

JOHN W. CLARK PUBLIC LIBRARY

Section 13-4 Library Established.

The Board hereby establishes a free public library in the Town of Franklinville to be known as the John W. Clark Public Library.

Section 13-5 Library Trustees.

For the government of the library, there shall be a board of not less than six and not more than twelve trustees appointed by the Board of Commissioners chosen from the citizens-at-large with reference to their fitness for such office. The Board of Commissioners may appoint one of its members to serve ex officio with the library board for the duration of his term on the governing board.

For the initial term, one-third of the members shall be appointed for two years, one-third for four years, and one-third for six years, and until their successors are appointed and qualified. Thereafter, the terms of the members shall be six years, and until their successors are appointed and qualified. All vacancies shall be immediately reported by the trustees to the Board of Commissioners which shall fill each vacancy for the unexpired term. The Board of Commissioners may remove any trustee for incapacity, unfitness, misconduct, or for neglect of duty. Members of the library board of trustees shall serve without compensation.

Section 13-6 Organization and Duties of Trustees.

The library board of trustees shall organize immediately after the appointment and shall elect one of its members as chairman, one as secretary and such other officers as it may deem necessary. The board of trustees shall have the following powers:

- (a) To adopt such bylaws, rules and regulations for its own guidance and for the government of the library as may be necessary and in conformity with law.
- (b) With the consent of the Board of Commissioners to lease and occupy, and to erect upon lands acquired by gifts, devise or purchase, an appropriate building or buildings.
- (c) To supervise and care for the rooms or buildings constructed, leased or set apart for library purposes.
- (d) To appoint a chief librarian and, upon recommendation of such librarian, assistant librarians and other employees, and to remove such librarians or employees, with the advice and consent of the Board of Commissioners.
- (e) To fix the compensation of the chief librarian and in consultation with such librarian to fix the compensation of the assistant librarians and all employees of the library and to prescribe rules for their conduct.
- (f) To prepare the annual budget for the library for submission to the Board of Commissioners for examination and final approval.
- (g) To extend the privileges and use of such library to nonresidents of the County of Randolph upon such terms and conditions as it may prescribe.
- (h) The Board of Trustees shall make an annual report to the Board of Commissioners covering the work of the public library during the fiscal year.

Section 13-7 Use of monies received.

All monies received for the library shall be paid into the municipal treasury, shall be earmarked for the use of the library, and shall

be paid out as other municipal funds are paid out. The budget for the library shall be adopted as part of the municipal budget.

Section 13-8 Gifts, Grants and Other Donations.

With the consent of the Board of Commissioners, expressed in each case by an appropriate resolution or ordinance, the library board of trustees may accept any gift, grant, devise or bequest made or offered by any person for library purposes and may carry out the conditions of such donations.

Section 13-9 Title to Properties.

Title to all property given, granted or conveyed, donated, devised or bequeathed to, or otherwise acquired by the library board of trustees, and any conveyance, grant, donation, devise, bequest or gift to or in the name of the library board of trustees shall be deemed to have been made directly to the Town of Franklinville.

Section 13-10 Use of Library.

The use of the public library shall be forever free to the inhabitants of the County of Randolph, subject to such reasonable rules and regulations as may be adopted by the library board of trustees and approved by the Board of Commissioners of the Town of Franklinville.

NOISE ORDINANCE

WHEREAS, the increased population of Randolph County has resulted in a higher density of population, with people living in closer proximity to each other; and

WHEREAS, the number of motor vehicles, televisions, radios, and other devices originating high volume of noise has increased to the extent that unreasonably loud, intense noise has become a nuisance, annoyance and health hazard to much of the population of Randolph County; and

WHEREAS, the health and welfare of the people of this county require enactment of an ordinance to minimize and control the emission of such loud, intense noises which disturb the tranquility of the community and jeopardize the health, safety or welfare of the people;

NOW, THEREFORE, pursuant to Sections 153A-121 and 153A-133 of the General Statutes of North Carolina, the Commissioners of Randolph County do enact the following ordinance for the purposes of promoting, safeguarding and maintaining the health, safety, and welfare of the citizens and the peace and dignity of the county.

LOUD AND DISTURBING NOISE

Section 1.

(a) Subject to the provisions of this Section, the creation of any unreasonably loud and disturbing noise of such character, intensity and duration as to be detrimental to the health, safety or welfare of any individual is prohibited in Randolph County.

(b) The following acts, among others, are declared to be loud, disturbing noises in violation of this Section, but such enumeration shall not be deemed to be exclusive:

(1) The use of any loud, boisterous or raucous language or shouting so as to annoy or disturb the quiet, comfort or repose of any person in the vicinity.

(2) 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; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for any unnecessary and unreasonable period of time.

(3) The playing of any radio, phonograph, tape player, television set, musical instrument or sound amplification device in such manner or with such volume, particularly during hours between 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of any person in any dwelling, hotel or other type of residence.

(4) The keeping of any animal which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person in the vicinity.

(5) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling, or other noise.

Section 2.

The presence of the owner or tenant on the premises from which the noise emanates, shall be prima facie evidence that such owner or tenant is the originator of such noise.

Section 3.

If any person or persons shall violate this ordinance he or she shall be guilty of a misdemeanor and shall be punished by a fine of not more than Fifty (\$50.00) Dollars or imprisonment for not more than three (3) days or by both fine and imprisonment. Each separate violation shall constitute a separate offense.

Section 4.

This ordinance shall apply to all areas in Randolph County outside of the corporate limits of the municipalities located therein unless adopted by the municipality pursuant to North Carolina General Statutes 153A-122.

Section 5.

If any word, phrase, sentence, or paragraph of this ordinance shall be adjudged invalid and of no effect, it shall not affect the remaining portions therein and they shall remain effective and enforceable.

Section 6.

This ordinance shall become effective on September 1, 1985.

Upon motion of Commissioner Davidson, seconded by Commissioner Langley, the foregoing ordinance was passed by the following vote:

Ayes: Frye, Davidson, Langley, Comer

Noes: None

I, Alice D. Dawson, Clerk of the Randolph County Board of Commissioners, do hereby certify that the foregoing ordinance was duly adopted by the governing body of Randolph County at a regular meeting thereof, a quorum being present.

The 5th day of August, 1985.

Clerk to the Board

This ordinance was introduced at the July 8, 1985 meeting of the Randolph County Board of Commissioners.

This ordinance was adopted by the Board of Commissioners of the Town of Franklinville by unanimous vote at the January 13, 2009 Board meeting.

Chapter 5

GENERAL OFFENSES

Section 5-1 Noise Generally.

No person may authorize or cause to be emitted from any property or source under his control any noise that is both:

- (1) Sufficiently loud to frighten or pose a danger to the health of or seriously disturb any person who:
 - a. If the noise emanates from a source located on private property, is located on other property, or
 - b. If the noise emanates from a street or other public property, is located on private property or the street or other public property; and
- (2) Louder, or of greater duration, or otherwise more disturbing than is reasonably necessary for the performance of some lawful public or private function, enterprise, operation, or activity.

Section 5-2 Particular Noise.

The following are declared to be illustrations of noises prohibited under the foregoing section, and are hereby declared to be unlawful, but this list shall not be exhaustive:

- (1) The blowing of a horn on any motor vehicle except when the horn is used as a warning device.
- (2) The operation of any motor vehicle without a muffler or with a muffler that is so defective or so designed that the vehicle emits an unusually loud noise.
- (3) The operation of a motor vehicle so as to create unnecessary and unusual noise through the screeching of tires or racing of engines.
- (4) The playing of any radio, television, tape recorder, phonograph or similar electronic device or any musical instrument so as to disturb the comfort, quiet or repose of persons in any place of residence or so as to interfere substantially with the operations of any church, school, theatre, library, or other similar place of assembly.
- (5) The use of any drum, loudspeaker or other amplification instrument or device for the purpose of attracting attention by the creation of noise to any performance, show, sale, display, advertisement of merchandise, or other commercial venture.

Section 5-3 Discharge of Firearms and Air Rifles.

(a) Subject to subsection (b), no person may discharge any firearm within the town.

(b) Subsection (a) shall not apply to private citizens acting in justifiable self-defense or pursuant to the lawful directions of a police officer nor to police officers acting in a lawful performance of their duties.

(c) No person may discharge or shoot within the town any air rifle, air pistol, B-B gun, pellet gun, pump gun or similar weapon within 100 yards of any building or house or gathering of people.

Section 5-4 Operation of Public Enterprises without Franchise.

Except as otherwise provided by law, no person may operate within the town any public enterprise, as defined in G.S. 160A-311, without first obtaining a franchise from the town, nor may any person continue to operate such public enterprise after the expiration of such franchise.

Section 5-5 Curfew for Minors.

(a) No minor under the age of sixteen may loiter, wander, stroll, loaf or play upon the streets, roads, alleys, or other public places within the town, or in any vehicle placed or parked thereon, between the hours of 12:00 midnight and sunrise of the following day, unless accompanied by the parent, guardian, or other adult person having the care, custody, or control of the minor.

(b) No parent, guardian, or other person having the care, custody, or control of any minor under the age of sixteen may knowingly permit such minor to violate the provisions of subsection (a).

Section 5-6 Consumption of Beer and Wine on Public Property Prohibited.

No person may consume malt beverages or unfortified wines on any facility, right-of-way, or other property owned or occupied by the town.

Section 5-7 Public Drunkenness Prohibited.

No person shall be on or upon any public street or other public place while intoxicated.

Section 5-8. Profanity and Boisterous Conduct.

No person shall use loud and boisterous language so as to become a nuisance or use any form of profanity or indecent language on the public street or in a gathering or audience or assembly, or in any public place.

Section 5-9 House of Ill-Fame.

No person shall keep a house or other place of ill fame, and no person shall knowingly rent any house to be used as an ill fame. All adult persons living in such house shall be considered as keepers thereof, and be subject to the penalties of this ordinance.

Section 5-10 Vagrants.

All persons under suspicion, who shall be found with no visible means of support, shall be deemed a vagrant and shall not be allowed on the public streets or other public places.

ORDINANCE NO. 2009-0811

AN ORDINANCE APPROVING RULES AND REGULATIONS
FOR PEDESTRIAN/BICYCLE PATHWAYS & GREENWAYS

Whereas, to address safety issues and avoid multi-use conflicts on the Town of Franklinville Deep River Rail Trail and Riverside Park, it is the desire of the Franklinville Board of Commissioners to adopt rules and regulations to govern public use and keep trails safe for all users.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF FRANKLINVILLE, NORTH CAROLINA THAT:

Section 1: Title

This ordinance may be cited as the Town of Franklinville Bicycle, Bikeway, Pedestrian and Rail-Trail Ordinance.

Section 2: Definitions

As used in this ordinance the words and expressions defined in this section shall be held to have the following meanings herein given to them:

- 1) Bicycle – A non-motorized vehicle with two (2) or three (3) wheels tandem, a steering handle, one (1) or two (2) saddle seats, and pedals by which the vehicle is propelled.
- 2) Bikeways – All thoroughfares that explicitly provide for bicycle travel including facilities existing within street and highway rights of way and facilities along separate and independent corridors.
- 3) Deep River Rail Trail (DRRT) – a pedestrian and bicycle pathway paralleling Deep River and built mostly upon the abandoned Atlantic & Yadkin rail bed.
- 4) Greenway – a bicycle and pedestrian pathway. Term may be used interchangeably with DRRT.
- 5) Motor Vehicle – Every self-propelled device in, upon or by which any person or property is or may be transported or drawn upon a highway, with the exception of bicycles and electric personal assistive mobility device as defined herein. This term shall not apply to a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including sidewalks, and is limited by design to a maximum speed of

15 miles per hour when the device is being operated by a person with a mobility impairment.

- 6) Electric Personal Assistive Mobility Device – A self balancing non-tandem two wheeled device, designed to transport one person, with a propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

Section 3: Greenways/ Rail Trails Established

The following greenway/rail-trail path is established for the use of bicycles and pedestrians within the jurisdiction of the Town of Franklinville.

- 1) Riverside Park
- 2) Deep River Rail Trail, Phase 1 and any succeeding additions to said trail.

Section 4: Regulated uses

The following provisions shall apply upon the established bikeways/pedestrian walkways/sidewalks/greenways/rail trails of the Town of Franklinville:

- 1) Motorized vehicles, including but not limited to four-wheelers, three-wheelers, and dirt bikes, except as indicated below, are strictly prohibited on all bikeways/pedestrian walkways/sidewalks/greenways/rail trails. Emergency vehicles and those maintenance vehicles specifically authorized by the Public Works Director are exempted.
- 2) Four wheel devices such as motorized wheel chairs, Scooters, etc. intended for and used by a single handicapped or disabled person are permitted on bikeways/pedestrian walkways/sidewalks/greenways/rail trails.
- 3) Blocking of a bikeway/pedestrian walkway/sidewalk/greenway/rail trail by any user is strictly prohibited.
- 4) Greenway/rail trail hours of operation are dawn to dusk year round.
- 5) Possession and use of alcoholic beverages and/or drugs are strictly prohibited.
- 6) Littering is strictly prohibited.
- 7) Pets are permitted upon bikeways/pedestrian walkways/sidewalks/greenways/rail trails, however they must be leashed at all times and the owner or responsible party must remove all animal waste.
- 8) Camping and campfires are strictly prohibited, except in designated areas so marked
- 9) The cutting or damaging of any tree or plant is strictly prohibited unless specifically authorized by the Public Works Director and/or the property owner across whose property the greenway or rail-trail passes, or in accordance with a documented maintenance plan

- 10) Horses and/or other equines are strictly prohibited on all bikeways/pedestrian walkways/sidewalks/greenways/rail trails.

Section 5. Applicability of Traffic Regulations

All bicycles used and operated upon and across designated bikeways within the Town of Franklinville's jurisdiction shall be considered vehicles and the riders of such bicycles shall be subject to all provisions of the Town of Franklinville City Code and Chapter 20 of the North Carolina General Statutes applicable to the driver of vehicles except those which by their nature can have no application. Bicyclists using bike paths shall comply with all traffic regulations posted along the path and shall stop or otherwise yield the right of way before entering or crossing a public street.

Section 6. Shared Facilities

While roadways are provided for the safety and convenience of motorists, sidewalks and greenways are provided for the safety and convenience of pedestrians and bikeways are provided for the safety and convenience of bicyclists, it is recognized that in many instances such facilities may be shared. On shared facilities, the following regulations shall apply:

- 1) When using bike paths and bike trails, pedestrians shall walk as far to the right as practicable; shall walk no more than two (2) abreast; and shall exercise due care. Bicyclists shall give an audible signal before passing a pedestrian on a bike path or trail.
- 2) Persons riding bicycles upon a bikeway shall ride single file except when passing another bicycle.
- 3) On and across bikeways upon which pedestrian traffic is also permitted bicycles shall at all times yield the right of way to pedestrians.

Section 7. Penalties for Improper Use of Bikeways/Rail-Trails

- 1) Use of any motorized vehicle except as noted in Section 4 (1) & (2), not specifically authorized by the Public Works Director will result in the immediate confiscation of said vehicle by the Public Works Director or any sworn law enforcement officer. A fine of not less than \$250.00 is required before any such vehicle is returned to its owner. Any second violation by the vehicle, regardless of who is operating the vehicle, will result in the permanent confiscation of said vehicle.

AN ORDINANCE ESTABLISHING THE POSTING OF SIGNS PROHIBITING
THE CARRYING OF CONCEALED WEAPONS ON
CERTAIN MUNICIPAL PROPERTY

WHEREAS, Chapter 398 of the 1993 Sessions Laws made changes to the laws governing concealed weapons by establishing a system that will allow private citizens to obtain permits to carry concealed handguns;

WHEREAS, this change will significantly increase the number of individuals who may legally carry handguns;

WHEREAS, it is necessary to restrict the carrying of concealed handguns on certain town property in order to protect the health and safety of municipal employees and the community at large;

WHEREAS, N.C.G.S. 14-415.20 authorizes municipalities to adopt ordinances to permit the posting of a prohibition against carrying a concealed handgun, in accordance with N.C.G.S. 14-415.11(c), in local government buildings, their appurtenant premises, and parks; and

WHEREAS, it is the intent of this ordinance to direct the posting of municipal property such that, pursuant to N.C.G.S. 14-415.11(c), the carrying of concealed handguns on the posted premises will constitute a violation of N.C.G.S. Chapter 14, Article 54B;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the town of Franklinville, North Carolina that:

Section 1. Posting of Signs Required. The Town Clerk 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.

Section 2. Location of Signs. Signs on buildings shall be visibly posted on the exterior of each entrance by which general public can access the building. The Town Clerk shall exercise discretion in determining the number and appropriate location of signs to be placed on or within appurtenant premises and parks.

Section 3. Severability; Conflict of Laws. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end the provisions of this ordinance are declared to be severable. All ordinance or parts or ordinances in conflict with this ordinance are hereby repealed.

Section 4. Effective Date. This ordinance shall be effective on and after December 1, 1995.

Section 1. The following ordinance is hereby adopted by the Town of Frankfort, Kentucky:

Section 1. Purpose of Ordinance: To prohibit

Carrying Handguns

which Chapter 19 of the 1990 Sessions Code was changed to the laws governing concealed weapons by establishing a system that will allow private citizens to obtain permits to carry concealed weapons;

which the change will substantially increase the number of individuals who lawfully carry handguns;

which it is necessary to restrict the carrying of concealed handguns on certain town property in order to protect the health and safety of municipal employees and the community at large;

which Chapter 14 of the 1990 Sessions Code authorizes municipalities to adopt ordinances to prohibit the posting of a prohibition against carrying a concealed handgun, in accordance with Chapter 14 of the 1990 Sessions Code, in town government buildings, other governmental premises, and public and

which it is the intent of this ordinance to direct the posting of municipal property such that, pursuant to Chapter 14 of the 1990 Sessions Code, the carrying of concealed handguns on the posted premises will constitute a violation of Chapter 14, Article 04B;

now, therefore, be it ordained by the Board of Commissioners of the Town of Frankfort, Kentucky, that

Section 1. Posting of Signs. The town clerk is hereby authorized and instructed to post conspicuous signs at appropriate locations on or within each park and each building or portion of a building owned, leased, licensee, operated, occupied, managed or controlled by the town, as well as on appurtenant premises to such buildings, indicating that carrying a concealed handgun is prohibited therein.

Section 2. Location of Signs. Signs on buildings shall be visibly posted on the exterior of each entrance by which general public has access to the building. The town clerk shall exercise discretion in determining the number and appropriate location of signs to be placed on or within appurtenant grounds and parks.

Section 3. Severability. If any provision of this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and shall not be construed to invalidate the ordinance in its entirety. The provisions of this ordinance shall be severable and shall remain in effect and enforceable in any part which is not held invalid.

Section 4. This ordinance shall be in full force and effect from and after its passage and publication in the town official newspaper.

ORDINANCE NO. 2009-0811

AN ORDINANCE APPROVING RULES AND REGULATIONS
FOR PEDESTRIAN/BICYCLE PATHWAYS & GREENWAYS

Whereas, to address safety issues and avoid multi-use conflicts on the Town of Franklinville Deep River Rail Trail and Riverside Park, it is the desire of the Franklinville Board of Commissioners to adopt rules and regulations to govern public use and keep trails safe for all users.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF FRANKLINVILLE, NORTH CAROLINA THAT:

Section 1: Title

This ordinance may be cited as the Town of Franklinville Bicycle, Bikeway, Pedestrian and Rail-Trail Ordinance.

Section 2: Definitions

As used in this ordinance the words and expressions defined in this section shall be held to have the following meanings herein given to them:

- 1) Bicycle – A non-motorized vehicle with two (2) or three (3) wheels tandem, a steering handle, one (1) or two (2) saddle seats, and pedals by which the vehicle is propelled.
- 2) Bikeways – All thoroughfares that explicitly provide for bicycle travel including facilities existing within street and highway rights of way and facilities along separate and independent corridors.
- 3) Deep River Rail Trail (DRRT) – a pedestrian and bicycle pathway paralleling Deep River and built mostly upon the abandoned Atlantic & Yadkin rail bed.
- 4) Greenway – a bicycle and pedestrian pathway. Term may be used interchangeably with DRRT.
- 5) Motor Vehicle – Every self-propelled device in, upon or by which any person or property is or may be transported or drawn upon a highway, with the exception of bicycles and electric personal assistive mobility device as defined herein. This term shall not apply to a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including sidewalks, and is limited by design to a maximum speed of

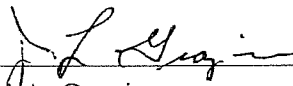
- 2) Anyone operating an unauthorized vehicle upon any bikeway or rail-trail is responsible for any and all cost of repair(s) to said facilities as determined by the Public Works Director.

Section 8 – These rules and regulations shall be displayed both on brochures and information signs along designated bikeways.

Section 9 – This Ordinance shall become effective upon its Adoption and Approval.

Adopted and Approved upon first reading, this the 11th day of August, 2009.

Adopted and Approved upon second reading, this the 8th day of September, 2009.


J. L. Grazier
Mayor

ATTEST:


Shelia D. Vince
Clerk

TOWN OF FRANKLINVILLE
North Carolina

ORDINANCE NO. 02016-0809

AN ORDINANCE DECLARING A ROAD CLOSURE FOR A CHRISTMAS PARADE

WHEREAS, the Board of Commissioners of the Town of Franklinville acknowledges a long tradition of providing an annual Christmas parade for the pleasure of its citizens; and

WHEREAS, the Board of Commissioners of the Town of Franklinville acknowledges a parade requires approximately two (2) hours total to install signing and traffic control and removal of signs and traffic control.

NOW, THEREFORE BE IT ORDAINED by the Board of Commissioners of the Town of Franklinville pursuant to the authority granted by G.S. 20-169 that they do hereby declare a temporary road closure during the day and time set forth below on the following described portion of a State Highway System route:

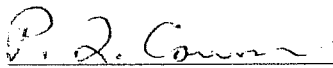
Date: Saturday, December 3, 2016

Time: 10:00 a.m. to 12:00 p.m.

Route Description: Academy Street to NC Hwy 22 (Main St) down Depot Street to Clark Avenue back to Academy Street.

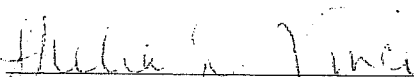
This ordinance is to become effective when signs are erected giving notice of the limits and times of the parade, and implementation of adequate traffic control to guide through vehicles around the parade route.

Adopted this 9th day of August, 2016.



Perry L. Conner, Mayor

Attest:



Shelia D. Vince, NCCMC
Town Clerk

Town of Franklinville

Founded 1847

163 West Main St * PO Box 277
Franklinville, NC 27248
(336) 824.2604 (336) 824.2446 fax



FAXED
S Vince
8/1/16

Fax Cover Sheet

Date: August 1, 2016

To: W.H. Fields

From: Shelia Vince, Town Clerk

Pages: 2 (including this one)

Fax: 910-947-6881

RE: Road Close for Fall Festival

ORDINANCE NO. 2009-0811

AN ORDINANCE APPROVING RULES AND REGULATIONS
FOR PEDESTRIAN/BICYCLE PATHWAYS & GREENWAYS

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- 2) Bikeways – All thoroughfares that explicitly provide for bicycle travel including facilities existing within street and highway rights of way and facilities along separate and independent corridors.
- 3) Deep River Rail Trail (DRRT) – a pedestrian and bicycle pathway paralleling Deep River and built mostly upon the abandoned Atlantic & Yadkin rail bed.
- 4) Greenway – a bicycle and pedestrian pathway. Term may be used interchangeably with DRRT.
- 5) Motor Vehicle – Every self-propelled device in, upon or by which any person or property is or may be transported or drawn upon a highway, with the exception of bicycles and electric personal assistive mobility device as defined herein. This term shall not apply to a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including sidewalks, and is limited by design to a maximum speed of

15 miles per hour when the device is being operated by a person with a mobility impairment.

- 6) Electric Personal Assistive Mobility Device – A self balancing non-tandem two wheeled device, designed to transport one person, with a propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

Section 3: Greenways/ Rail Trails Established

The following greenway/rail-trail path is established for the use of bicycles and pedestrians within the jurisdiction of the Town of Franklinville.

- 1) Riverside Park
- 2) Deep River Rail Trail, Phase 1 and any succeeding additions to said trail.

Section 4: Regulated uses

The following provisions shall apply upon the established bikeways/pedestrian walkways/sidewalks/greenways/rail trails of the Town of Franklinville:

- 1) Motorized vehicles, including but not limited to four-wheelers, three-wheelers, and dirt bikes, except as indicated below, are strictly prohibited on all bikeways/pedestrian walkways/sidewalks/greenways/rail trails. Emergency vehicles and those maintenance vehicles specifically authorized by the Public Works Director are exempted.
- 2) Four wheel devices such as motorized wheel chairs, Scooters, etc. intended for and used by a single handicapped or disabled person are permitted on bikeways/pedestrian walkways/sidewalks/greenways/rail trails.
- 3) Blocking of a bikeway/pedestrian walkway/sidewalk/greenway/rail trail by any user is strictly prohibited.
- 4) Greenway/rail trail hours of operation are dawn to dusk year round.
- 5) Possession and use of alcoholic beverages and/or drugs are strictly prohibited.
- 6) Littering is strictly prohibited.
- 7) Pets are permitted upon bikeways/pedestrian walkways/sidewalks/greenways/rail trails, however they must be leashed at all times and the owner or responsible party must remove all animal waste.
- 8) Camping and campfires are strictly prohibited, except in designated areas so marked
- 9) The cutting or damaging of any tree or plant is strictly prohibited unless specifically authorized by the Public Works Director and/or the property owner across whose property the greenway or rail-trail passes, or in accordance with a documented maintenance plan

- 10) Horses and/or other equines are strictly prohibited on all bikeways/pedestrian walkways/sidewalks/greenways/rail trails.

Section 5. Applicability of Traffic Regulations

All bicycles used and operated upon and across designated bikeways within the Town of Franklinville's jurisdiction shall be considered vehicles and the riders of such bicycles shall be subject to all provisions of the Town of Franklinville City Code and Chapter 20 of the North Carolina General Statutes applicable to the driver of vehicles except those which by their nature can have no application. Bicyclists using bike paths shall comply with all traffic regulations posted along the path and shall stop or otherwise yield the right of way before entering or crossing a public street.

Section 6. Shared Facilities

While roadways are provided for the safety and convenience of motorists, sidewalks and greenways are provided for the safety and convenience of pedestrians and bikeways are provided for the safety and convenience of bicyclists, it is recognized that in many instances such facilities may be shared. On shared facilities, the following regulations shall apply:

- 1) When using bike paths and bike trails, pedestrians shall walk as far to the right as practicable; shall walk no more than two (2) abreast; and shall exercise due care. Bicyclists shall give an audible signal before passing a pedestrian on a bike path or trail.
- 2) Persons riding bicycles upon a bikeway shall ride single file except when passing another bicycle.
- 3) On and across bikeways upon which pedestrian traffic is also permitted bicycles shall at all times yield the right of way to pedestrians.

Section 7. Penalties for Improper Use of Bikeways/Rail-Trails

- 1) Use of any motorized vehicle except as noted in Section 4 (1) & (2), not specifically authorized by the Public Works Director will result in the immediate confiscation of said vehicle by the Public Works Director or any sworn law enforcement officer. A fine of not less than \$250.00 is required before any such vehicle is returned to its owner. Any second violation by the vehicle, regardless of who is operating the vehicle, will result in the permanent confiscation of said vehicle.

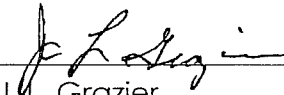
- 2) Anyone operating an unauthorized vehicle upon any bikeway or rail-trail is responsible for any and all cost of repair(s) to said facilities as determined by the Public Works Director.

Section 8 – These rules and regulations shall be displayed both on brochures and information signs along designated bikeways.

Section 9 – This Ordinance shall become effective upon its Adoption and Approval.

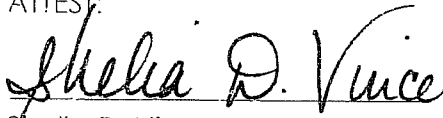
Adopted and Approved upon first reading, this the 11th day of August, 2009.

Adopted and Approved upon second reading, this the 8th day of September, 2009.



J.L. Grazier
Mayor

ATTEST:



Shelia D. Vince
Town Clerk

char/AMWk

ORDINANCE CREATING A PARKS AND RECREATION COMMISSION
FOR THE TOWN OF FRANKLINVILLE

Section 1-1. Created.

There is hereby created a parks and recreation commission for the Town of Franklinville.

Section 1-2. Membership.

The commission shall consist of not less than seven (7) nor more than nine (9) members, all of whom shall be appointed at large. All members shall be citizens of the Town or residents of the extra-territorial jurisdiction of the Town.

Section 1-3. Appointment.

Members of the commission shall be appointed by the mayor and Town Board. Terms shall end on June 30th, with initial terms staggered so that three (3) vacancies occur each year.

Section 1-4. Meetings; Chairman.

The parks and recreation commission shall hold meetings at such time and places as it shall determine, and shall adopt bylaws, rules and regulations governing its procedure. It shall select from its membership a commissioner to serve as chair, and such other officers as it deems appropriate to serve for a term of one year.

Section 1-5. Attendance of Members at Meetings.

A commission member who, without excuse, misses more than three (3) consecutive meetings or a total of four (4) meetings during the year, loses his status as a member of the commission. In such cases the chair will immediately request the Town Board to fill the vacancy. Absences due to sickness, death or other such obligatory emergencies shall be regarded as excused absences and shall not affect the member's status on the commission. However, in the event of a long illness, or other such causes for prolonged absence, the member may be replaced by the Board.

Section 1-6. Duties, powers.

The parks and recreation commission shall have the following powers and duties:

(a) Advise the Board, Mayor and staff concerning all matters relating to the operation of a system of public recreation for the Town of Franklinville.

(b) Advise on establishing and maintaining a system of organized and supervised recreational activity for the Town within the budgetary levels authorized by the Board.

(c) Recommend to the Board land to be set apart for use as parks, playgrounds, recreation centers, greenways, water areas or other recreational areas and structures.

(d) Supervise the use of appropriate lands or buildings leased by the Town for recreational purposes.

(e) Recommend upon the needs for appropriate additional lands and structures for the recreational activities of the Town.

(f) Advise the Town Board, Mayor and staff as to maintenance and operation of recreational facilities owned or controlled by the Town.

(g) Recommend to the Town Board, Mayor and staff rules and measures for the use and regulatory control of Town recreational facilities.

(h) Advise the Town Board as to the amount of all fees, rentals and charges for park and recreation services.

(i) Review the budget for the parks and recreation department, and make comments and recommendations to the Town Board with respect thereto.

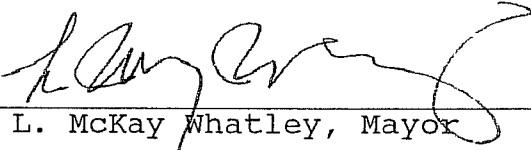
(j) Advise the planning board on all matters pertaining to recreational planning for the community.

(k) Make recommendations to and assist the Town Board and Planning Board in preparing a five-year program covering both operating and capital plans for the parks and recreation department.

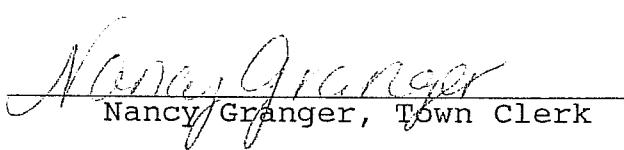
The adoption of this ordinance was moved by
Commissioner LE, seconded by Commissioner
NEW, and passed by a unanimous vote.

This the 30 day of OCTOBER, 1994.

(SEAL)



L. McKay Whatley, Mayor



Nancy Granger, Town Clerk

AN ORDINANCE REGULATING THE OPERATION
AND USE OF PARKS AND RECREATION FACILITIES
OWNED AND CONTROLLED BY THE TOWN OF FRANKLINVILLE

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF FRANKLINVILLE:

PURPOSE: The purpose of this ordinance is to establish regulations for the public health, safety, welfare in respect to the recreational activities, programs, and facilities of the Town of Franklinville. This ordinance is designed to maximize the enjoyment of recreation in Franklinville recreation facilities and programs and offer protection from conditions which could harm, injure, or offend any group or individual.

1. Operation of Motor Vehicles:

The operation of all motorized vehicles, including but not limited to automobiles, motorcycles, and mini-bikes, shall be unlawful, except on designated roadways.

Parking of motor vehicles shall be in designated parking areas only. No vehicle shall be parked on recreational premises for washing, waxing or repair. No vehicle shall be parked within the boundaries of any recreational premises overnight. Any vehicle parked not in accordance with this section may be towed at the vehicles owner's expense.

The provisions in this section shall not apply to motor vehicles driven by law enforcement officers, emergency vehicles, Franklinville Recreation and Parks Department staff and volunteers acting on behalf of and performing duties required by the Department or persons performing maintenance work on recreational premises, provided that they are acting within the scope of their employment.

2. Bicycling:

Except in specially designated areas, bicycling is prohibited on recreational premises.

3. Skateboards:

Except in specially designated areas, skateboards are prohibited on recreational premises.

4. Animals Running at Large:

It shall be unlawful for any owner thereof to allow or permit any horses, dogs, or other animal to run at large in a recreational

facility. Dogs must be kept on leashes at all times and under the control of a competent person while on recreational premises.

It shall be prohibited to ride horses except in areas designated for that purpose.

5. Molesting Animals:

It shall be unlawful for any person within the confines of any park to hunt, pursue, trap, shoot, injure, kill or molest in any way any bird, waterfowl or animal, nor shall any person have any wild bird or animal in his possession within any park.

6. Fishing:

It shall be unlawful to fish in any waters or waterways in or adjacent to any park, except in such waters and at such places as are provided therefor. All state fishing laws and regulations must be complied with.

7. Swimming:

It shall be unlawful to bathe, wade, or swim in any waters in any park except at such times and in such places as may be designated.

8. Alcoholic Beverages and Controlled Substances:

It shall be unlawful to bring upon, possess, consume, display or sell any beer, wine, whiskey or other intoxicating liquor or beverage or controlled substances or the containers thereof within the confines of any park and recreation areas. It shall be prohibited for a person under the influence of alcohol or any controlled substance to enter or remain in a recreation facility or program.

9. Noise:

It shall be unlawful for any person using any recreational premises to make or cause to be made any loud, disturbing or unnecessary noises.

The following are, for the purpose of this Ordinance, loud, disturbing or unnecessary noises:

- a. loud or boisterous language;
- b. profane, vulgar, lewd or obscene language or language which would ordinarily abuse the hearer which can be and is heard by persons other than the person(s) making statements containing profane language;
- c. the use of automobile or other motor vehicle horn, except to signal an emergency;
- d. the playing of a radio, boom box, portable tape player, musical instrument, or other sound reproduction device

in such a manner or at such a volume as to disturb the quiet, comfort, or repose of any person.

The Board of Commissioners may exempt from the provisions of this Section a person performing on recreational premises at a Town sponsored event.

10. Damage to Growth:

It shall be unlawful to damage, cut, carve, transplant or remove any tree or plant or injure the bark or pick the flowers or seeds, of any tree or plant or to dig or otherwise disturb grass areas or in any other way injure or impair the natural beauty or usefulness of any area.

11. Destruction of Park Property:

It shall be unlawful for any person to wilfully mark, deface, disfigure, injure, tamper with, or displace or remove, any structure, equipment, facilities, or other property, either real or personal.

12. Weapons:

It shall be unlawful for any person to display, carry, possess, use, or in the case of firearms discharge any dangerous weapon on recreational premises. For purposes of this Section, the term "dangerous weapon" shall include, but not be limited to a knife, dagger, razor, stun gun, pistol, rifle, gun or any other weapon of like kind.

This Section shall not apply to law enforcement officers when engaged in the discharge of their duties.

13. Explosives:

It shall be unlawful for any person to bring or have in his possession or set off or otherwise cause to explode or discharge or burn, any firecrackers or other fireworks or explosives or discharge them or throw them into any such area from land or highway adjacent thereto.

14. Fires:

It shall be unlawful for any person to ignite a fire on recreational premises, except in areas authorized for picnicking, and then only in grills or ovens designed for food preparation.

Fires shall never be left unattended.

No person shall dump any ashes or coals into a refuse receptacle on recreational premises.

No person who ignites a fire on recreational premises shall leave the recreational premises until the fire has been completely extinguished.

15. Camping:

Except at recreational premises which are specifically designated as campsites, overnight camping is prohibited on recreational premises.

16. Boating:

Except in specially designated areas, boating is prohibited on recreational premises.

17. Games and Sports:

It shall be unlawful for any person to play organized football, golf, baseball or other games of like character in any area in a recreational facility except in such specifically designated area. At no time and under no circumstances shall such games be played in such close proximity to playground equipment or structures as to threaten bodily harm to persons using the facility or damage to facility structures.

18. Dumping and Littering:

No person shall deposit, dump, throw, cast, lay or place or cause to be deposited, dumped, thrown, cast, laid or placed any ashes, trash, rubbish, soil or earth, paper, garbage, bottles, refuse, debris, plant clippings or limbs or leaves in or upon any park or park lands or in any watercourse, lake, pond, or other water-body within said park lands.

It shall be unlawful for any person knowingly or intentionally to break any glass bottle or container within said park lands or watercourses.

19. Commercial Activity:

No person may engage in commercial activity on recreational premises.

For purposes of this section, commercial activity shall include, but not be limited to, the sale or attempted sale or advertisement for sale of any goods or services.

The provisions of this section shall not apply to Town sponsored activities or other events specifically authorized by the Board of Commissioners.

20. Opening and Closing Hours:

The Board of Commissioners shall by rule establish opening and closing hours for all recreational premises in the Town of Franklinville. The hours established for the town parks and recreational facilities will be on a seasonal basis, summer and winter hours. These times shall be posted at the appropriate facilities.

Presence by any person on recreational premises during a time when the premises are not open for operation is prohibited.

21. Permit - For Use of Facilities:

Before a publicized or scheduled activity which is not under the programmed or supervised activities of the Parks and Recreation Department can be scheduled at or on an Franklinville recreation facility, the procedure and regulations of the Department must be complied with for the issuance of a permit.

- a. Effect of Permit - Person or persons issued a permit shall be bound by all Recreation and Parks Department rules and regulations fully as though the same were inserted in said permits.
- b. Liability of Permittee - The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatever, by reason of the negligence of the person, or person to whom such permit shall have been issued.
- c. Revocation - The Director or his designated official shall have the authority to revoke a permit upon a finding of violation of any rule or regulation or upon good cause shown.

VIOLATIONS AND PENALTIES:

Violations of these regulations will subject any person to immediate removal from Town of Franklinville parks facility or program. Future utilization of any recreation facility or program may be limited or revoked to any person for a violation of these regulations. Any violation shall constitute a misdemeanor and shall be punishable by a fine of not more than \$50.00 or by imprisonment not to exceed 30 days. Nothing contained within these regulations shall be construed to limit any civil or criminal action or penalty as may be imposed by local, state, or federal law.

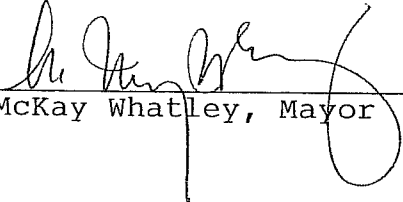
AMENDMENTS:

These rules and regulations may be amended periodically to insure that public health and safety is maintained and to guarantee the continued enjoyment of Franklinville Parks and Recreational facilities and programs.

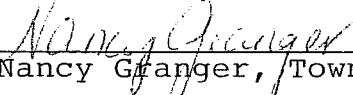
The adaption of this ordinance was moved by Commissioner Lee, seconded by Commissioner Diana, and passed by a UNANIMOUS vote.

This the 6th day of February 1995.

(SEAL)



L. McKay Whatley, Mayor



Nancy Granger, Town Clerk

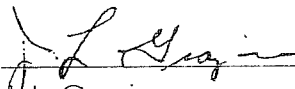
- 2) Anyone operating an unauthorized vehicle upon any bikeway or rail-trail is responsible for any and all cost of repair(s) to said facilities as determined by the Public Works Director.

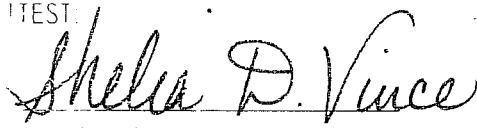
Section 8 – These rules and regulations shall be displayed both on brochures and information signs along designated bikeways.

Section 9 – This Ordinance shall become effective upon its Adoption and Approval.

Adopted and Approved upon first reading, this the 11th day of August, 2009.

Adopted and Approved upon second reading, this the 8th day of September, 2009.


J. L. Grazier
Mayor

ATTEST:

Shelia D. Vince
City Clerk

TOWN OF FRANKLINVILLE
North Carolina

ORDINANCE NO. 02016-0809

AN ORDINANCE DECLARING A ROAD CLOSURE FOR A CHRISTMAS PARADE

WHEREAS, the Board of Commissioners of the Town of Franklinville acknowledges a long tradition of providing an annual Christmas parade for the pleasure of its citizens; and

WHEREAS, the Board of Commissioners of the Town of Franklinville acknowledges a parade requires approximately two (2) hours total to install signing and traffic control and removal of signs and traffic control.

NOW, THEREFORE BE IT ORDAINED by the Board of Commissioners of the Town of Franklinville pursuant to the authority granted by *G.S. 20-169* that they do hereby declare a temporary road closure during the day and time set forth below on the following described portion of a State Highway System route:

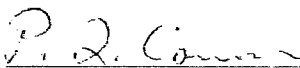
Date: Saturday, December 3, 2016

Time: 10:00 a.m. to 12:00 p.m.

Route Description: Academy Street to NC Hwy 22 (Main St) down Depot Street to Clark Avenue back to Academy Street.


This ordinance is to become effective when signs are erected giving notice of the limits and times of the parade, and implementation of adequate traffic control to guide through vehicles around the parade route.

Adopted this 9th day of August, 2016.



Perry L. Conner, Mayor

Attest:



Shelia D. Vince, NCCMC
Town Clerk

Town of Franklinville

Post Office Box 277

163 West Main Street

Franklinville, North Carolina 27248

Telephone (336) 824-2604

Facsimile (336) 824-2446

FOUNDED 1847

September 1, 2016

NCDOT
150 DOT Drive
Carthage, NC 28327
Attn: W.H. (Nick) Fields III
Traffic Services Supervisor

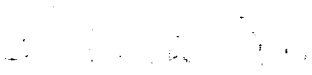
Dear Mr. Fields,

I am writing to you to let you know that the Town of Franklinville is planning a Christmas Parade on Saturday, December 3, 2016 at 10:30 am and that we would need to close off a portion of Main Street, Academy Street and Clark Avenue from approximately 9:30 am to 11:00 am. I have attached a description of the anticipated parade route for that day. Please let us know if this will be okay.

We will contact the Randolph County Sheriffs Department to insure we have adequate law enforcement personnel and traffic control along the route of the parade on that day

Please contact Commissioner Richard Goodwin at 336-737-4185 or e-mail richard.goodwin@ncdot.gov for any additional information you may need concerning this matter.

Sincerely,


Shelia Vince, Town Clerk
Town of Franklinville

TOWN OF FRANKLINVILLE
North Carolina

ORDINANCE NO. O2016-7.12.16

AN ORDINANCE DECLARING A ROAD CLOSURE FOR A FALL FESTIVAL

WHEREAS, the Board of Commissioners of the Town of Franklinville acknowledges the Eastern Randolph/Ramseur Chamber has plans for a Fall Arts and Crafts show for the pleasure of its citizens; and

WHEREAS, the Board of Commissioners of the Town of Franklinville acknowledges such event requires approximately two (2) hours total to install signing and traffic control and removal of signs and traffic control.

NOW, THEREFORE BE IT ORDAINED by the Board of Commissioners of the Town of Franklinville pursuant to the authority granted by G.S. 20-169 that they do hereby declare a temporary road closure during the day and time set forth below on the following described portion of a State Highway System route:

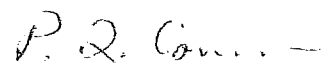
Date: Saturday, October 8, 2016

Time: 8:00 a.m. to 5:00 p.m.

Route Description: NC Hwy 22 (Main St) from Rose Street to Academy Street.

This ordinance is to become effective when signs are erected giving notice of the limits and times of the event, and implementation of adequate traffic control to guide through vehicles around the event route.

Adopted this 12th day of July, 2016.



Perry L. Conner, Mayor


Attest:



Shelia D. Vince, NCCMC -Town Clerk

Town of Franklinville

Founded 1847

163 West Main St * PO Box 277
Franklinville, NC 27248
(336) 824.2604 (336) 824.2446 fax



FAXED
S Vince
8/1/16

Fax Cover Sheet

Date: August 1, 2016

To: W.H. Fields

From: Shelia Vince, Town Clerk

Pages: 2 (including this one)

Fax: 910-947-6881

RE: Road Close for Fall Festival

ORDINANCE NO. 2009-0811

AN ORDINANCE APPROVING RULES AND REGULATIONS FOR PEDESTRIAN/BICYCLE PATHWAYS & GREENWAYS

Whereas, to address safety issues and avoid multi-use conflicts on the Town of Franklinville Deep River Rail Trail and Riverside Park, it is the desire of the Franklinville Board of Commissioners to adopt rules and regulations to govern public use and keep trails safe for all users.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF FRANKLINVILLE, NORTH CAROLINA THAT:

Section 1: Title

This ordinance may be cited as the Town of Franklinville Bicycle, Bikeway, Pedestrian and Rail-Trail Ordinance.

Section 2: Definitions

As used in this ordinance the words and expressions defined in this section shall be held to have the following meanings herein given to them:

- 1) Bicycle – A non-motorized vehicle with two (2) or three (3) wheels tandem, a steering handle, one (1) or two (2) saddle seats, and pedals by which the vehicle is propelled.
- 2) Bikeways – All thoroughfares that explicitly provide for bicycle travel including facilities existing within street and highway rights of way and facilities along separate and independent corridors.
- 3) Deep River Rail Trail (DRRT) – a pedestrian and bicycle pathway paralleling Deep River and built mostly upon the abandoned Atlantic & Yadkin rail bed.
- 4) Greenway – a bicycle and pedestrian pathway. Term may be used interchangeably with DRRT.
- 5) Motor Vehicle – Every self-propelled device in, upon or by which any person or property is or may be transported or drawn upon a highway, with the exception of bicycles and electric personal assistive mobility device as defined herein. This term shall not apply to a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including sidewalks, and is limited by design to a maximum speed of

15 miles per hour when the device is being operated by a person with a mobility impairment.

- 6) Electric Personal Assistive Mobility Device – A self balancing non-tandem two wheeled device, designed to transport one person, with a propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

Section 3: Greenways/ Rail Trails Established

The following greenway/rail-trail path is established for the use of bicycles and pedestrians within the jurisdiction of the Town of Franklinville.

- 1) Riverside Park
- 2) Deep River Rail Trail, Phase 1 and any succeeding additions to said trail.

Section 4: Regulated uses

The following provisions shall apply upon the established bikeways/pedestrian walkways/sidewalks/greenways/rail trails of the Town of Franklinville:

- 1) Motorized vehicles, including but not limited to four-wheelers, three-wheelers, and dirt bikes, except as indicated below, are strictly prohibited on all bikeways/pedestrian walkways/sidewalks/greenways/rail trails. Emergency vehicles and those maintenance vehicles specifically authorized by the Public Works Director are exempted.
- 2) Four wheel devices such as motorized wheel chairs, Scooters, etc. intended for and used by a single handicapped or disabled person are permitted on bikeways/pedestrian walkways/sidewalks/greenways/rail trails.
- 3) Blocking of a bikeway/pedestrian walkway/sidewalk/greenway/rail trail by any user is strictly prohibited.
- 4) Greenway/rail trail hours of operation are dawn to dusk year round.
- 5) Possession and use of alcoholic beverages and/or drugs are strictly prohibited.
- 6) Littering is strictly prohibited.
- 7) Pets are permitted upon bikeways/pedestrian walkways/sidewalks/greenways/rail trails, however they must be leashed at all times and the owner or responsible party must remove all animal waste.
- 8) Camping and campfires are strictly prohibited, except in designated areas so marked
- 9) The cutting or damaging of any tree or plant is strictly prohibited unless specifically authorized by the Public Works Director and/or the property owner across whose property the greenway or rail-trail passes, or in accordance with a documented maintenance plan

- 10) Horses and/or other equines are strictly prohibited on all bikeways/pedestrian walkways/sidewalks/greenways/rail trails.

Section 5. Applicability of Traffic Regulations

All bicycles used and operated upon and across designated bikeways within the Town of Franklinville's jurisdiction shall be considered vehicles and the riders of such bicycles shall be subject to all provisions of the Town of Franklinville City Code and Chapter 20 of the North Carolina General Statutes applicable to the driver of vehicles except those which by their nature can have no application. Bicyclists using bike paths shall comply with all traffic regulations posted along the path and shall stop or otherwise yield the right of way before entering or crossing a public street.

Section 6. Shared Facilities

While roadways are provided for the safety and convenience of motorists, sidewalks and greenways are provided for the safety and convenience of pedestrians and bikeways are provided for the safety and convenience of bicyclists, it is recognized that in many instances such facilities may be shared. On shared facilities, the following regulations shall apply:

- 1) When using bike paths and bike trails, pedestrians shall walk as far to the right as practicable; shall walk no more than two (2) abreast; and shall exercise due care. Bicyclists shall give an audible signal before passing a pedestrian on a bike path or trail.
- 2) Persons riding bicycles upon a bikeway shall ride single file except when passing another bicycle.
- 3) On and across bikeways upon which pedestrian traffic is also permitted bicycles shall at all times yield the right of way to pedestrians.

Section 7. Penalties for Improper Use of Bikeways/Rail-Trails

- 1) Use of any motorized vehicle except as noted in Section 4 (1) & (2), not specifically authorized by the Public Works Director will result in the immediate confiscation of said vehicle by the Public Works Director or any sworn law enforcement officer. A fine of not less than \$250.00 is required before any such vehicle is returned to its owner. Any second violation by the vehicle, regardless of who is operating the vehicle, will result in the permanent confiscation of said vehicle.

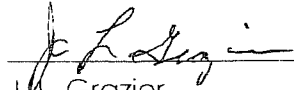
- 2) Anyone operating an unauthorized vehicle upon any bikeway or rail-trail is responsible for any and all cost of repair(s) to said facilities as determined by the Public Works Director.

Section 8 – These rules and regulations shall be displayed both on brochures and information signs along designated bikeways.


Section 9 – This Ordinance shall become effective upon its Adoption and Approval.

Adopted and Approved upon first reading, this the 11th day of August, 2009.

Adopted and Approved upon second reading, this the 8th day of September, 2009.



J. L. Grazier
Mayor

ATTEST:


Shelia D. Vince
Town Clerk

-128- 111-

ORDINANCE CREATING A PARKS AND RECREATION COMMISSION
FOR THE TOWN OF FRANKLINVILLE

Section 1-1. Created.

There is hereby created a parks and recreation commission for the Town of Franklinville.

Section 1-2. Membership.

The commission shall consist of not less than seven (7) nor more than nine (9) members, all of whom shall be appointed at large. All members shall be citizens of the Town or residents of the extra-territorial jurisdiction of the Town.

Section 1-3. Appointment.

Members of the commission shall be appointed by the mayor and Town Board. Terms shall end on June 30th, with initial terms staggered so that three (3) vacancies occur each year.

Section 1-4. Meetings; Chairman.

The parks and recreation commission shall hold meetings at such time and places as it shall determine, and shall adopt bylaws, rules and regulations governing its procedure. It shall select from its membership a commissioner to serve as chair, and such other officers as it deems appropriate to serve for a term of one year.

Section 1-5. Attendance of Members at Meetings.

A commission member who, without excuse, misses more than three (3) consecutive meetings or a total of four (4) meetings during the year, loses his status as a member of the commission. In such cases the chair will immediately request the Town Board to fill the vacancy. Absences due to sickness, death or other such obligatory emergencies shall be regarded as excused absences and shall not affect the member's status on the commission. However, in the event of a long illness, or other such causes for prolonged absence, the member may be replaced by the Board.

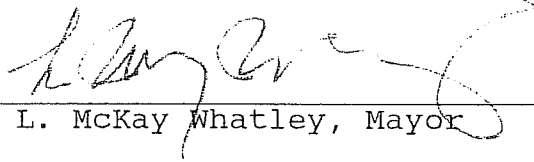
Section 1-6. Duties, powers.

The parks and recreation commission shall have the following powers and duties:

- (a) Advise the Board, Mayor and staff concerning all matters relating to the operation of a system of public recreation for the Town of Franklinville.
- (b) Advise on establishing and maintaining a system of organized and supervised recreational activity for the Town within the budgetary levels authorized by the Board.
- (c) Recommend to the Board land to be set apart for use as parks, playgrounds, recreation centers, greenways, water areas or other recreational areas and structures.
- (d) Supervise the use of appropriate lands or buildings leased by the Town for recreational purposes.
- (e) Recommend upon the needs for appropriate additional lands and structures for the recreational activities of the Town.
- (f) Advise the Town Board, Mayor and staff as to maintenance and operation of recreational facilities owned or controlled by the Town.
- (g) Recommend to the Town Board, Mayor and staff rules and measures for the use and regulatory control of Town recreational facilities.
- (h) Advise the Town Board as to the amount of all fees, rentals and charges for park and recreation services.
- (i) Review the budget for the parks and recreation department, and make comments and recommendations to the Town Board with respect thereto.
- (j) Advise the planning board on all matters pertaining to recreational planning for the community.
- (k) Make recommendations to and assist the Town Board and Planning Board in preparing a five-year program covering both operating and capital plans for the parks and recreation department.

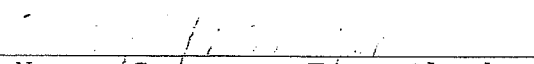
The adoption of this ordinance was moved by
Commissioner Lee, seconded by Commissioner
NEW, and passed by a unanimous vote.

This the 30th day of OCTOBER, 1994.



L. McKay Whatley, Mayor

(SEAL)



Nancy Granger, Town Clerk

AN ORDINANCE REGULATING THE OPERATION
AND USE OF PARKS AND RECREATION FACILITIES
OWNED AND CONTROLLED BY THE TOWN OF FRANKLINVILLE

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF FRANKLINVILLE:

PURPOSE: The purpose of this ordinance is to establish regulations for the public health, safety, welfare in respect to the recreational activities, programs, and facilities of the Town of Franklinville. This ordinance is designed to maximize the enjoyment of recreation in Franklinville recreation facilities and programs and offer protection from conditions which could harm, injure, or offend any group or individual.

1. Operation of Motor Vehicles:

The operation of all motorized vehicles, including but not limited to automobiles, motorcycles, and mini-bikes, shall be prohibited except on designated roadways.

Parking of motor vehicles shall be in designated parking areas only. No vehicle shall be parked on recreational premises for washing, waxing or repair. No vehicle shall be parked within the boundaries of any recreational premises overnight. Any vehicle parked not in accordance with this section may be towed at the vehicle owner's expense.

The provisions in this section shall not apply to the vehicles driven by law enforcement officers, emergency vehicles, Franklinville Recreation and Parks Department staff and volunteers acting on behalf of and performing duties required by the Department or persons performing maintenance work on recreational premises, provided that they are acting within the scope of their employment.

2. Bicycling:

Except in specially designated areas, bicycling is prohibited on recreational premises.

3. Skateboards:

Except in specially designated areas, skateboards are prohibited on recreational premises.

4. Animals Running at Large:

It shall be unlawful for any owner thereof to allow or permit any horses, dogs, or other animal to run at large in a recreational

facility. Dogs must be kept on leashes at all times and under the control of a competent person while on recreational premises.

It shall be prohibited to ride horses except in areas designated for that purpose.

5. Molesting Animals:

It shall be unlawful for any person within the confines of any park to hunt, pursue, trap, shoot, injure, kill or molest in any way any bird, waterfowl or animal, nor shall any person have any wild bird or animal in his possession within any park.

6. Fishing:

It shall be unlawful to fish in any waters or waterways in or adjacent to any park, except in such waters and at such places as are provided therefor. All state fishing laws and regulations must be complied with.

7. Swimming:

It shall be unlawful to bathe, wade, or swim in any waters in any park except at such times and in such places as may be designated.

8. Alcoholic Beverages and Controlled Substances:

It shall be unlawful to bring upon, possess, consume, display or sell any beer, wine, whiskey or other intoxicating liquor or beverage or controlled substances or the containers thereof within the confines of any park and recreation areas. It shall be prohibited for a person under the influence of alcohol or any controlled substance to enter or remain in a recreation facility or program.

9. Noise:

It shall be unlawful for any person using any recreational premises to make or cause to be made any loud, disturbing or unnecessary noises.

The following are, for the purpose of this Ordinance, loud, disturbing or unnecessary noises:

- a. loud or boisterous language;
- b. profane, vulgar, lewd or obscene language or language which would ordinarily abuse the hearer which can be and is heard by persons other than the person(s) making statements containing profane language;
- c. the use of automobile or other motor vehicle horn, except to signal an emergency;
- d. the playing of a radio, boom box, portable tape player, musical instrument, or other sound reproduction device

in such a manner or at such a volume as to disturb the quiet, comfort, or repose of any person.

The Board of Commissioners may exempt from the provisions of this Section a person performing on recreational premises at a Town sponsored event.

10. Damage to Growth:

It shall be unlawful to damage, cut, carve, transplant or remove any tree or plant or injure the bark or pick the flowers or seeds, of any tree or plant or to dig or otherwise disturb grass areas or in any other way injure or impair the natural beauty or usefulness of any area.

11. Destruction of Park Property:

It shall be unlawful for any person to wilfully mark, deface, disfigure, injure, tamper with, or displace or remove, any structure, equipment, facilities, or other property, either real or personal.

12. Weapons:

It shall be unlawful for any person to display, carry, possess, use, or in the case of firearms discharge any dangerous weapon on recreational premises. For purposes of this Section, the term "dangerous weapon" shall include, but not be limited to a knife, dagger, razor, stun gun, pistol, rifle, gun or any other weapon of like kind.

This Section shall not apply to law enforcement officers when engaged in the discharge of their duties.

13. Explosives:

It shall be unlawful for any person to bring or have in his possession or set off or otherwise cause to explode or discharge or burn, any firecrackers or other fireworks or explosives or discharge them or throw them into any such area from land or highway adjacent thereto.

14. Fires:

It shall be unlawful for any person to ignite a fire on recreational premises, except in areas authorized for picnicking, and then only in grills or ovens designed for food preparation.

Fires shall never be left unattended.

No person shall dump any ashes or coals into a refuse receptacle on recreational premises.

No person who ignites a fire on recreational premises shall leave the recreational premises until the fire has been completely extinguished.

15. Camping:

Except at recreational premises which are specifically designated as campsites, overnight camping is prohibited on recreational premises.

16. Boating:

Except in specially designated areas, boating is prohibited on recreational premises.

17. Games and Sports:

It shall be unlawful for any person to play organized football, golf, baseball or other games of like character in any area in a recreational facility except in such specifically designated area. At no time and under no circumstances shall such games be played in such close proximity to playground equipment or structures as to threaten bodily harm to persons using the facility or damage to facility structures.

18. Dumping and Littering:

No person shall deposit, dump, throw, cast, lay or place or cause to be deposited, dumped, thrown, cast, laid or placed any ashes, trash, rubbish, soil or earth, paper, garbage, bottles, refuse, debris, plant clippings or limbs or leaves in or upon any park or park lands or in any watercourse, lake, pond, or other water-body within said park lands.

It shall be unlawful for any person knowingly or intentionally to break any glass bottle or container within said park lands or watercourses.

19. Commercial Activity:

No person may engage in commercial activity on recreational premises.

For purposes of this section, commercial activity shall include, but not be limited to, the sale or attempted sale or advertisement for sale of any goods or services.

The provisions of this section shall not apply to Town sponsored activities or other events specifically authorized by the Board of Commissioners.

20. Opening and Closing Hours:

The Board of Commissioners shall by rule establish opening and closing hours for all recreational premises in the Town of Franklinville. The hours established for the town parks and recreational facilities will be on a seasonal basis, summer and winter hours. These times shall be posted at the appropriate facilities.

Presence by any person on recreational premises during a time when the premises are not open for operation is prohibited.

21. Permit - For Use of Facilities:

Before a publicized or scheduled activity which is not under the programmed or supervised activities of the Parks and Recreation Department can be scheduled at or on an Franklinville recreation facility, the procedure and regulations of the Department must be complied with for the issuance of a permit.

- a. Effect of Permit - Person or persons issued a permit shall be bound by all Recreation and Parks Department rules and regulations fully as though the same were inserted in said permits.
- b. Liability of Permittee - The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatever, by reason of the negligence of the person, or person to whom such permit shall have been issued.
- c. Revocation - The Director or his designated official shall have the authority to revoke a permit upon a finding of violation of any rule or regulation or upon good cause shown.

VIOLATIONS AND PENALTIES:

Violations of these regulations will subject any person to immediate removal from Town of Franklinville parks facility or program. Future utilization of any recreation facility or program may be limited or revoked to any person for a violation of these regulations. Any violation shall constitute a misdemeanor and shall be punishable by a fine of not more than \$50.00 or by imprisonment not to exceed 30 days. Nothing contained within these regulations shall be construed to limit any civil or criminal action or penalty as may be imposed by local, state, or federal law.

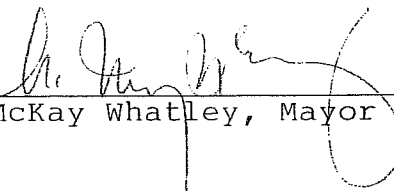
AMENDMENTS:

These rules and regulations may be amended periodically to insure that public health and safety is maintained and to guarantee the continued enjoyment of Franklinville Parks and Recreational

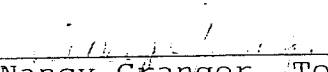
The adaption of this ordinance was moved by Commissioner Lee, seconded by Commissioner McKay, and passed by a unanimous vote.

This the 6th day of February 1995.

(SEAL)



L. McKay Whatley, Mayor



Nancy Granger, Town Clerk

CHAPTER 10
PUBLIC HEALTH
Article I
DEFINITIONS

Section 10-1 Definitions.

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter.

- (1) Abandoned motor vehicle. A vehicle that (i) is left on public grounds or town-owned property in violation of a law or ordinance prohibiting parking, or (ii) is left for longer than twenty-four hours on property owned or operated by the town, or (iii) is left for longer than two hours on private property without the consent of the owner, occupant, or lessee of the property, or (iv) is left for longer than seven days on public grounds.
- (2) Garbage. All solid wastes capable of being rapidly decomposed by microorganisms, including but not limited to animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food, as well as animal offal and carcasses, but excluding sewage and human wastes.
- (3) Junked motor vehicles. An abandoned motor vehicle that also (i) is partially dismantled or wrecked, or (ii) cannot be self-propelled or moved in the manner in which it was originally intended to move, or (iii) is more than five years old and appears to be worth less than one-hundred dollars (\$100.00), or (iv) does not display a current license plate when the motor vehicle is required by laws of this state to have such a license plate to operate on the public roads.
- (4) Motor vehicles. Any machine designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle.
- (5) Public works director. The public works director or any other person designated by the mayor to perform the functions and exercise the responsibilities assigned by this chapter to the public works director.
- (6) Refuse. All solid wastes except (i) garbage and (ii) solids that are dissolved or suspended in domestic, commercial, or industrial waste water effluent.
- (7) Scrap materials. Scrap materials are:
 - a. Pieces or fragments of metal, wood, glass, masonry, plastic, textiles, rope, leather, rubber, paper, or any other substance, that formerly were part of the construc-

TOWN OF FRANKLINVILLE
SOLID WASTE COLLECTION PRACTICES

Adopted 9 October 2007

Effective 9 October 2007

1. Tree limbs, hedge and shrubbery cuttings, when not produced by a tree or landscape contractor, will be collected provided such brush is placed at the street edge with the large end of each limb toward the street for quick loading. The collection of tree trimmings shall include nothing more than four (4) inches in diameter and eight (8) feet in length. Tree trimmings larger than four (4) inches in diameter must be trimmed and cut into lengths of not more than thirty (30) inches. Tree stumps, tree trunks and limbs produced by landscape workers, tree trimmers or contractors doing such work will not be hauled or removed by town trucks.
2. All refuse must be placed in neat, compact piles, with a separate pile for each different type of refuse. Brush, trimmings and hedge cuttings, leaves, wood, cardboard, paper and metal must all be placed in distinctly different piles.
3. Brush must be piled so that the butt ends are together and in the same direction, not to exceed four (4) feet in height. Disorganized piles will not be picked up.
4. Leaves must be placed in clear plastic bags, except during the time that the vacuum leaf collection truck is in operation, from October 25th to January 10th (Note: Leaf collection dates may vary at the discretion of the Public Works Director.) Leaves placed on gravel driveways or an unpaved street must have plastic or a tarp under the pile. No tree limbs, shrubs, or other materials shall be mixed with the leaves.
5. Building or remodeling rubbish shall be collected, removed and disposed of by the contractor or builder, or in their failure, by the owner of the property. Construction or remodeling debris must be removed from the property within 30 days.
6. Large items (including sofas, ovens, refrigerators, washers, dryers, etc.) may be removed at the request of the property owner whose property is used for residential purposes, provided that the weight of the individual article can be lifted by two (2) persons. ~~NO LARGE ITEM PICK-UP AS OF DEC. 07, 2008.~~
7. Any household whose refuse is not piled in the proper manner will be notified, in writing, by the Public Works Director. Such notification will indicate what must be done to prepare the refuse for collection.
8. No collection shall be made from vacant lots.
9. Storm damage will be handled on an as-needed basis.

SOLID WASTE ORDINANCE (Amendment)

Article III STORAGE AND COLLECTION OF SOLID WASTES

Section 10-17 Storage and Collection Practices

- (a) Garbage may be store pending collection only in the receptacles described in Subsection 10-16(c).
- (b) Trash removal service is provided by the Town of Franklinville on a weekly basis. Each residence will be supplied with one (1) trash cart. Additional trash carts may be requested with the expense being the responsibility of the landowner / tenant. All trash must be bagged and placed inside the trash carts. Do not place large articles such as furniture, mattresses, etc. at the trash carts. Nothing will be picked up that is outside of the trash cart.
- (c) Place cart on level surface as close as possible to the edge of curb or street. Cart should be placed so that the handle faces your house. Allow five (5) feet from utility poles, parked cars and other damageable objects. The Town of Franklinville will not be responsible for any damages. No object should be between cart and street (shrubs, fences, signs, etc.). There should be a 13 foot over-head clearance above the cart. If two or more carts are placed, allow three (3) feet between carts. Bagging your garbage before placing it in the cart will help keep your cart clean and help prevent littering problems.
- (d) In the event a cart has to be replaced for any reason (lost, stolen, damaged, etc.), the **property owner** will be responsible for any and all cost involved with replacement of the cart(s).
- (e) As of December 09, 2008 the Town of Franklinville will no longer provide Large Item Pick-up Service. All property owners will be responsible for the removal of large items (sofas, ovens, refrigerators, washers, dryers, etc.). The Town of Franklinville will not be responsible for the disposal of any refuse, large items, or household goods that will not fit inside trash carts. Failure to dispose of large items properly or allowing them to remain visible on a property for more than two (2) weeks is a violation of this ordinance. No trash or solid waste of any sort is permitted to be buried within the Town of Franklinville.
- (f) Except as otherwise provided in this section, solid waste may not be stored within 45 feet of the center line of any public street unless such solid waste are stored within a completely enclosed substantial structure such as a house, garage, or shed.

(Am. Ord., 12-09-2008)

Sections 10-18 through 10-25 Reserved.

TOWN OF FRANKLINVILLE
SOLID WASTE COLLECTION PRACTICES

Adopted 9 October 2007

Effective 9 October 2007

1. Tree limbs, hedge and shrubbery cuttings, when not produced by a tree or landscape contractor, will be collected provided such brush is placed at the street edge with the large end of each limb toward the street for quick loading. The collection of tree trimmings shall include nothing more than four (4) inches in diameter and eight (8) feet in length. Tree trimmings larger than four (4) inches in diameter must be trimmed and cut into lengths of not more than thirty (30) inches. Tree stumps, tree trunks and limbs produced by landscape workers, tree trimmers or contractors doing such work will not be hauled or removed by town trucks.
2. All refuse must be placed in neat, compact piles, with a separate pile for each different type of refuse. Brush, trimmings and hedge cuttings, leaves, wood, cardboard, paper and metal must all be placed in distinctly different piles.
3. Brush must be piled so that the butt ends are together and in the same direction, not to exceed four (4) feet in height. Disorganized piles will not be picked up.
4. Leaves must be placed in clear plastic bags, except during the time that the vacuum leaf collection truck is in operation, from October 25th to January 10th (Note: Leaf collection dates may vary at the discretion of the Public Works Director.) Leaves placed on gravel driveways or an unpaved street must have plastic or a tarp under the pile. No tree limbs, shrubs, or other materials shall be mixed with the leaves.
5. Building or remodeling rubbish shall be collected, removed and disposed of by the contractor or builder, or in their failure, by the owner of the property. Construction or remodeling debris must be removed from the property within 30 days.
6. Any household whose refuse is not piled in the proper manner will be notified, in writing, by the Public Works Director. Such notification will indicate what must be done to prepare the refuse for collection.
7. No collection shall be made from vacant lots.
8. Storm damage will be handled on an as-needed basis.

tion of some useful object or thing or that consist of the excess resulting from the creation of some useful object or thing; or

- b. Objects or things, including but not limited to machines, tools, equipment, hardware, furniture, appliances, et cetera, or parts of the same that are no longer in serviceable condition or are valuable only as raw material for reprocessing; or
 - c. Motor vehicles or remnants thereof that (i) do not display current license plates, and (ii) cannot without substantial repairs be made to operate in the manner originally intended, and (iii) are valuable only as raw materials for reprocessing, but that do not constitute solid wastes as herein defined because they are or may be useful to or wanted by or have not been discarded by the person in control of the premises where they have been located.
- (8) Solid wastes. Wastes that are nongaseous and nonliquid (except that liquid wastes resulting from the processing of food are deemed solid wastes for the purposes of this chapter).
- (9) Wastes. All useless, unwanted, or discarded materials resulting from domestic, industrial, commercial or community activities.

Article II

CONTROL OF SOLID WASTES, SCRAP MATERIALS, NOXIOUS GROWTH

Section 10-2 Accumulation of Solid Wastes.

(a) Subject to the qualifications contained in subsection (b), no person may cause, suffer, or permit solid wastes to accumulate or remain on premises under his control except in accordance with the provisions of Article III of this chapter (Storage and Collection of Solid Wastes).

(b) Natural solid waste materials resulting from lawn or garden work, such as bush and tree trimmings, leaves, grass, stumps, dirt and stones may be allowed to accumulate or remain on premises under a person's control unless these materials become or threaten to become a fire hazard or a harboring place for rats, mice, snakes or other vermin or otherwise pose a danger to the public health or safety.

Section 10-3 Dumping or Littering on Public or Private Property.

No person may place, discard, throw, drop, or deposit, or cause to be placed, discarded, thrown, dropped or deposited any solid wastes on:

- (1) Any public street or sidewalk within the town or on any property owned or operated by the town or any other public property, except in properly designated receptacles; or
- (2) Any property not owned by him without the consent of the owner, occupant, or lessee thereof.

(Note: G.S. 14-399 makes the acts prohibited in this section a misdemeanor, punishable by a fine of not more than \$200.00. Therefore, this section may be enforced by the town only through civil penalties or injunctive relief).

Section 10-4 Transportation of Solid Waste within Town.

No person may transport or cause to be transported any solid wastes on the public streets of the town unless the solid wastes are so secured that no solid wastes escape from the transporting vehicle. In addition, any garbage so transported shall be carried in closed containers that prevent the escape of noxious odors or liquids.

Section 10-5 Burying Solid Wastes

No person may bury or cause to be buried any solid waste for purposes of disposal.

Section 10-6 Scrap Materials; Declaration of Policy.

The Board hereby declares that the uncontrolled accumulation of scrap materials on any premises constitutes a danger to the health, safety, and welfare of the citizens of the town in that such accumulations can furnish shelter and breeding places for vermin, present physical dangers to the safety and well-being of children and other citizens, pose a danger of fire and depreciate property values or cause a loss of business by detracting from the appearance and character of residential and commercial neighborhoods.

Section 10-7 Accumulation of Scrap Materials.

No person may cause, suffer, or permit scrap materials to accumulate or remain on premises under his control unless the scrap materials are:

- (1) Surrounded by a fence of sufficient height, strength, and construction to deny persons, especially small children, access to them and to shield neighboring properties from the view of them; or
- (2) Are so stored within a structure or within a container outside of a structure as to minimize substantially the dangers set forth in Section 10-6.

Section 10-8 Noxious Growth.

No person may cause, suffer, or permit on premises under his control any growth of weeds, grasses, or other plants or bushes that be-

THE FRANKLINVILLE TOWN CODE

ARTICLE II

Control of Solid Waste, Scrap Metals, Noxious Growths

Sec 10-9. Duty of property owners to remove flammable wastes; removal of flammable wastes by city when property owner fails to do so.

(a) No person shall permit any accumulation of waste paper, weeds, litter or combustible or flammable waste or rubbish of any kind to remain upon any roof or in any court, yard, vacant lot or other open space. Every owner or occupant of property shall cut down and remove therefrom, all weeds, grass, vines, and other growth which is likely to be fired. Any person who fails to remove any of the above hazards within five (5) days after notice from the chief of the fire department, such hazards shall be corrected by the Town and the cost thereof assessed against the property.

(b) No person making, using, storing or having charge or control of any shavings, excelsior, rubbish, sacks, bags, litter or combustible trash or waste, shall fail, neglect or refuse at the close of each day to cause all such material which is not compactly baled and stacked in an orderly manner to be removed from the premises or stored in noncombustible containers; provided, that this section shall not apply to saw mills, planing mills, or similar business establishments, where the usual litter or refuse is reasonably cared for and disposed of.

comes or threatens to become a fire hazard or a harboring place for rats, mice, snakes or other vermin or otherwise poses a danger to the public health or safety.

Sections 10-9 through 10-15 Reserved.

Article III

STORAGE AND COLLECTION OF SOLID WASTES

Section 10-16 Property Owners Provide Adequate Solid Waste Receptacles.

(a) The owner of every premises shall be responsible for providing adequate solid waste receptacles in accordance with this section to store the solid wastes generated by activities taking place on those premises.

(b) Every premises shall be served by at least one of the receptacles specified in subsection (c), and the public works director may require the owner to provide more than one if necessary to meet the objective stated in subsection (a).

(c) The receptacle required by this section shall be a 20-to-32-gallon container made of galvanized metal, plastic, rubber, or other material resistant to rust, corrosion, or rapid deterioration. Each required container shall be watertight and provided with handles and a tight fitting cover.

Section 10-17 Storage and Collection Practices.

(a) Garbage may be stored pending collection only in the receptacles described in Subsection 10-16(c).

(b) Except as otherwise provided in this section, solid wastes may not be stored within 45 feet of the center line of any public street unless such solid wastes are stored within a completely enclosed substantial structure such as a house, garage, or shed.

Sections 10-18 through 10-25 Reserved.

Article IV

ABANDONED AND JUNKED MOTOR VEHICLES

Section 10-26 Statement of Policy.

Abandoned and junked motor vehicles constitute a hazard to the health and welfare of the people of the town in that such vehicles can harbor noxious diseases, furnish shelter and breeding places for vermin, and present physical dangers to the safety and well-being of children and other citizens. It is therefore in the public interest that the present accumulation of abandoned and junked motor vehicles be eliminated and that future abandonment of such vehicles be prevented.

Section 10-27 Removal of Abandoned and Junked Vehicles Authorized.

(a) Subject to subsection (b), whenever it is made to appear to appropriate town officials that abandoned or junked motor vehicles exist within town limits, the town may have the vehicle removed to a storage yard or area and thereafter may dispose of them in accordance with the provisions of this article.

(b) No motor vehicle may be removed from private property without the written request of the owner, lessee, or occupant of the premises, except in accordance with Article V, Part 2 of this chapter.

(c) The town may require any person requesting the removal of a junked or abandoned motor vehicle from private property to indemnify the town against any loss, expense, or liability incurred because of the removal, storage, or sale thereof.

Section 10-28 Notice Required When Vehicle Removed.

When any junked or abandoned motor vehicle is removed in accordance with this article, the town shall promptly give written notice of the removal to the owner of the vehicle at his last known address, according to the latest registration certificate or certificate of title on file with the State Division of Motor Vehicles, or if the vehicle is not required to be registered, according to the best information reasonably available concerning the owner's last known address. The notice shall inform the owner of the possible sale and disposition that may be made of the vehicle under this article. The notice shall also inform the owner of the possible sale and disposition that may be made of the vehicle under this article. The notice shall also inform the owner that he may regain possession of the vehicle by paying to the town or to a towing service operator, as agent of the town all reasonable costs incidental to the removal and storage of the vehicle.

Section 10-29 Disposal of Abandoned Motor Vehicles.

(a) After holding an abandoned motor vehicle for thirty days after the day the vehicle is removed, the town may sell or dispose of its as provided in this section. If the vehicle was removed by a private towing operator, as agent of the town, the vehicle may be sold or disposed of as provided by G.S. Chapter 44A.

(b) If the vehicle appears to be worth less than one-hundred dollars (\$100.00), the town may dispose of it as a junked motor vehicle as provided in Section 10-30. With the consent of the owner, the town may remove and dispose of any motor vehicle as a junked motor vehicle, without regard to the value, condition, or age of the vehicle, and without holding it for any prescribed period of time.

(c) If the vehicle is worth one-hundred dollars (\$100.00) or more, it shall be sold at public auction. Twenty days' written notice of the sale shall be given to the registered owner at his last known address, the holders of all liens of record against the vehicle, and the State Division of Motor Vehicles.

(d) Any person having an interest in the vehicle may redeem it at any time before the sale by paying all costs accrued to date.

(e) The proceeds of the sale shall be paid to the town finance director, who shall pay to the appropriate officers or persons the costs of removal, storage, investigation, sale, and liens of record, 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 for sixty days if the registered owner cannot be located with reasonable diligence. If the owner does not claim the remainder of the proceeds within sixty days after the sale, the funds shall be deposited in the town's general fund and the owner's rights shall forever be extinguished.

(f) When it receives a town's bill of sale from a purchaser or other person entitled to receive any vehicle disposed of as provided in this section, the State Division of Motor Vehicles will issue a certificate of title for the vehicle as required by law.

Section 10-30 Disposal of Junked Motor Vehicles

(a) After holding an unclaimed junked vehicle for fifteen days, the town may destroy it or sell it at private sale as junk.

(b) Within fifteen days after final disposition as a junked motor vehicle, the town shall notify the State Division 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 simple and accurate a description of the vehicle as can be reasonably determined.

(c) Any proceeds from the sale of a junked motor vehicle shall be paid to the town finance director, who shall pay to the appropriate officers or persons the costs of removal, storage, investigations, sale and liens of record 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 for thirty days if the registered owner cannot be located with reasonable diligence. If the owner does not appeal to claim the proceeds within thirty days after disposal of the vehicle, the money shall be deposited in the town's general fund and the owner's rights forever extinguished.

Section 10-31 Exceptions for Certain Vehicles

(a) When a vehicle that is required to display a license plate to operate on the public roads of this state does not display a license plate and the vehicle identification numbers have been removed or defaced so as to be illegible, the provisions of Sections 10-28, 10-29, and 10-30 need not be followed, and such vehicles may be destroyed or sold at private sale (without regard to value) after being held for forty-eight hours.

(b) The provisions of this article shall not apply to any vehicle in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an

appropriate storage place or depository maintained in a lawful place and manner by the town.

Section 10-32 Abandoned or Junked Motor Vehicles Dangerous or Prejudicial to the Public Health or Safety.

Nothing contained in this article shall be construed to limit the authority of the town to effect the removal or abatement of any abandoned or junked motor vehicle, regardless of whether the motor vehicle is located on private property with the consent of the owner, lessee, or occupant thereof, if the motor vehicle is found to constitute a situation dangerous or prejudicial to the public health or safety in accordance with Part 2 of Article V of this chapter because it is found to be:

- (1) A breeding ground or harbor for mosquitos or other insects, snakes, rats, or other pests; or
- (2) A point of heavy growth of weeds or other noxious vegetation over 8 inches in height; or
- (3) A point of collection for pools or ponds of water; or
- (4) A point of concentration of gasoline, oil, or other flammable or explosive materials; or
- (5) So located that there is danger of the vehicle's falling or turning over; or
- (6) A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside or from exposed surfaces of metal, glass, or other materials; or
- (7) A danger to the public health or safety for other reasons.

Sections 10-33 through 10-35 Reserved.

Article V

ENFORCEMENT

Part 1. Ordinary Penalties and Remedies

Section 10-36 Penalties and Remedies.

(a) A violation of any of the following provisions of this chapter shall constitute a misdemeanor, punishable as provided in G.S. 14-4: Article II (except Section 10-3), and Article III.

(b) A violation of any of the provisions specified in subsection (a) (as well as Section 10-3) shall also subject the offender to a civil penalty of twenty-five dollars (\$25.00). If the offender fails to pay this penalty within fifteen calendar days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of debt.

(c) Each day that any violation continues after a person has been notified that such violation exists and that he is subject to the penalties specified in subsections (a) and (b) shall constitute a separate offense.

(d) This chapter may also be enforced by an appropriate equitable combination of the foregoing remedies.

Section 10-37 Violations Resulting from Continuing Conditions.

(a) Whenever a violation of this chapter results from a continuing condition rather than a discrete event, a written notice shall be sent to the last known address of the responsible person, specifying the nature of the violation and what must be done to correct it, requiring the responsible person to correct the violation within ten calendar days after delivery of the notice, and informing the responsible person of the possible consequences of his failure to comply.

(b) Whenever a violation of this chapter results from a continuing condition rather than a discrete event, the penalties and remedies provided for in Section 10-36 may not be invoked until after the ten-day correction period specified in the section has expired.

Part 2. Extraordinary Remedies

Section 10-38 Summary Abatement of Conditions Dangerous or Prejudicial to the Public Health.

If the Board concludes, after notice and hearing as provided in this part, that any condition or situation prohibited by this chapter or any other condition or situation is dangerous or prejudicial to the public health or safety, it may order town officials to summarily removed, abate, or remedy everything so found within the town limits or within one mile thereof.

Section 10-39 Notice Required.

Before the action authorized by Section 10-38 is taken, notice shall be sent to the respondent, informing him:

- (1) What condition or situation is alleged to be dangerous or prejudicial to the public health or safety;
- (2) When and where the Board will meet to hold a hearing on the issue of whether the condition cited is dangerous or prejudicial to public health;
- (3) That if the Board determines that the cited condition is dangerous or prejudicial to public health or safety, it may order town officials to summarily abate, remedy, or correct the offending condition;
- (4) That the expenses incurred by the town in connection with the actions described in subdivision (3) of this section, if not

paid by the respondent, shall become a lien upon the land where the offending condition is located, to be collected as unpaid taxes. If after due diligence, the respondent's address cannot be determined, then the notice required by this section shall be posted conspicuously on the offending property not later than three days before the scheduled hearing. This notice shall be sent by mail (certified, deliver to addressee only, return receipt requested) not later than five calendar days prior to the scheduled hearing or delivered to the respondent by a town officer or employee, not later than three days prior to the scheduled hearing. For purposes of this part, the respondent is the person who is responsible for the offending condition, as well as the owner of the property where the offending condition is located, if different from the former.

Section 10-40 Hearing Procedures.

At the hearing held pursuant to this part, the town administration shall be responsible for presenting sufficient evidence to the Board to substantiate a finding that a condition exists that is dangerous or prejudicial to the public health or safety. The Board may consider all reliable evidence and need not be bound by the strict rules of evidence applicable to courts of law, but all witnesses shall be sworn. The respondent may be represented by counsel and may present evidence. All parties may cross-examine adverse witnesses. At the conclusion of the hearing, the Board shall make findings of fact, state its conclusions, and enter an appropriate order. The Board's findings of fact, conclusion, and order shall be reduced to writing and a copy sent by mail or delivered to the respondent within three days following the hearing.

Section 10-41 Order.

If the Board concludes that a situation or condition exists that is dangerous or prejudicial to the public health or safety, it may:

- (1) Order appropriate town officials or employees to summarily remove, abate, or remedy everything so found and to assess the cost of this action against the respondent in accordance with Section 10-38 of this article; or
- (2) Order the respondent to correct the situation within a specified time period and order town officials to abate, correct, or remedy the offending condition if the respondent fails to act within the prescribed time limits.

THE FRANKLINVILLE TOWN CODE

ARTICLE VI

Minimum Housing Standards

Sec. 10-42. Findings; purpose.

Pursuant to the General Statutes of North Carolina, section 160A-441, it is hereby found and declared that there exists in the Town, dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazard of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities and due to other conditions rendering such dwellings unsafe or unsanitary, and dangerous and detrimental to the health, safety and morals and otherwise inimical to the welfare of the residents of the city.

In order to protect the health, safety and welfare of the residents of the city as authorized by article 159, chapter 160A, of the General Statutes of North Carolina, it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by the General Statutes of North Carolina, section 160A-441 et.seq.

Sec. 10-43. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

BASEMENT. A portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

CELLAR. A portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

DETERIORATED. A Dwelling that is unfit for human habitation but which can be repaired, altered or improved to comply with all of the minimum standards established by this article, at a cost not in excess of fifty percent of its value, as determined by finding of the inspector.

DILAPIDATED. A dwelling that is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this article at a cost not in excess of fifty percent of its value, as determined by finding of the inspector.

DWELLING. Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided, that temporary housing as hereinafter defined shall not be regarded as a dwelling.

DWELLING UNIT. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

EXTERMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the inspector.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE ROOM. A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces.

INFESTATION. The presence, within or around a dwelling, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or to the public.

INSPECTOR. A building inspector of the town or any agent of the inspector who is authorized by him.

MULTIPLE DWELLING. any dwelling containing more than two dwelling units.

OCCUPANT. Any person over one year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.

OPERATOR. Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

OWNER. Any person who alone, or jointly or severally with others:

(1) Shall have title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(2) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

PLUMBING. Gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas line.

PUBLIC AUTHORITY. The city housing authority or any officer who is in charge of any department or branch of the government of the city, county or state relating to health, fire, building regulations or other activities concerning dwellings in the city.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

ROOMING HOUSE. Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father or sister or brother of the owner or operator.

RUBBISH. Combustible and noncombustible waste materials, except garbage and ashes, and the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

SUPPLIED. Paid for, furnished, provided by or under the control of the owner or operator.

TEMPORARY HOUSING. Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than thirty consecutive days.

UNFIT FOR HUMAN HABITATION. Conditions exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this article.

MEANING OF CERTAIN WORDS. Whenever the words "dwelling, dwelling unit, rooming house, rooming unit, premises" are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

Sec. 10-44. Minimum standards--Compliance.

Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections 10-45 through 10-50. No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections 10-45 through 10-50.

Sec. 10-45. Same--Construction.

(a) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated or damaged and shall not have holes or cracks which might admit rodents.

(b) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(c) Foundation, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.

(d) Steps, stairs, landings, porches or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.

(e) Adequate facilities for egress in case of fire or panic shall be provided.

(f) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(g) The roof, flashings, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and watertight.

(h) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling or in such condition or location as to constitute a fire hazard.

(i) There shall be no use of the ground for floors, or wood floors on the ground. (3-11-71, _ 4.)

Sec. 10-46. Same--Plumbing; heating; electricity.

(a) PLUMBING SYSTEM

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to be a potable water supply.

(3) All plumbing fixtures shall meet the standards of the town Plumbing Code and shall be maintained in a state of good repair and in good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(b) HEATING SYSTEM. Every dwelling and dwelling unit shall have facilities for providing heat in accordance with either (1) or (2) below:

(1) Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of seventy (70) degrees Fahrenheit measured at a point three (3) feet above the floor during ordinary winter conditions.

(2) Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms with a minimum temperature of seventy (70) degrees Fahrenheit measured three (3) feet above the floor during ordinary winter conditions.

(c) ELECTRICAL SYSTEM.

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two (2) floor or wall type electric convenience receptacles, connected in such manner as determined by the town Electric Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one (1) supplied ceiling or wall type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three (3) floor or wall type electric convenience receptacles.

(2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used and installed in accordance with the town Electrical Code.

Sec. 10-47. Same--Ventilation.

(a) GENERAL. Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be ten (10) percent of the floor area or such room. Whenever walls or other portions of structures face a window of any such room and such light obstructing structures are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight type window in the top of such room, the total window area of such skylight shall equal at least fifteen (15) percent of the total floor area of such room.

(b) HABITABLE ROOMS. Every habitable room shall have at least one (1) window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least forty-five (45) percent of the minimum window area size or minimum skylight type window size as required, or shall have other approved, equivalent ventilation.

(c) BATHROOM AND WATER CLOSET ROOMS. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

Sec. 10-48. Same--Space, use and location.

(a) ROOM SIZES. Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the town Residential Building Code.

Every dwelling unit shall contain at least one hundred and fifty (150) square feet of habitable floor area for the first occupant, at least one hundred (100) square feet of additional habitable area for each of the next three (3) occupants and at least seventy-five (75) square feet of additional habitable floor area for each additional occupant.

In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

(b) CEILING HEIGHT. At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven (7) feet and six (6) inches.

(c) FLOOR AREA CALCULATION. Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten (10) percent of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half (4.5) feet shall not be considered as part of the floor area computing the total area of the room to determine maximum permissible occupancy.

(d) CELLAR. No cellar shall be used for living purposes.

(e) BASEMENTS. No basement shall be used for living purposes unless:

- (1) the floor and walls are substantially watertight;
- (2) the total window area, total openable window area and ceiling height are equal to those required for habitable rooms;
- (3) the required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well or accessway.

Sec. 10-49. Same--Safety; sanitation.

(a) EXTERIOR FOUNDATION, WALLS AND ROOFS. Every foundation wall, exterior wall and exterior roof shall be substantially weathertight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(b) INTERIOR FLOOR, WALLS AND CEILINGS. Every floor, interior wall and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(c) WINDOWS AND DOORS. Every window, exterior door, basement or cellar door and hatchway shall be substantially weathertight, watertight and rodent proof; and shall be kept in sound working condition and good repair.

(d) STAIRS, PORCHES AND APPURTENANCES. Every inside and outside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and good repair.

(e) BATHROOM FLOORS. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(f) SUPPLIED FACILITIES. Every supplied facility, piece of equipment or utility which is required under this article shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.

(g) DRAINAGE. Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

(h) NOXIOUS WEEDS. Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.

(i) EGRESS. Every dwelling unit shall be provided with adequate means of egress as required by the city Building Code.

Sec. 10-50. Same--Control of insects, rodents and infestations.

(a) SCREENS. In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a selfclosing device, and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed.

(b) RODENT CONTROL. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or such other approved device as will effectively prevent their entrance.

(c) INFESTATION. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(d) RUBBISH STORAGE AND DISPOSAL. Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by town ordinances, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(e) GARBAGE STORAGE AND DISPOSAL. Every dwelling and every dwelling unit shall be supplied with and approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an incinerator unit, to be approved by the inspector, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage can as required by town ordinances.

Sec. 10-51. Same--Rooming houses; exceptions.

All of the provisions of this article, and all of the minimum standards and requirements of this article, shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following subsections:

(a) WATER CLOSET, HAND LAVATORY AND BATH FACILITIES. At least one (1) water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four (4) rooms within a rooming house wherever such facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one (1) common hall or passageway and shall be not more than one (1) story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(b) MINIMUM FLOOR AREA FOR SLEEPING PURPOSES. Every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

(c) SANITARY CONDITIONS. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the rooming house; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure of building within which the rooming house is contained is leased or occupied by the operator.

(d) SANITARY FACILITIES. Every water closet, flush urinal, lavatory basin and bathtub or shower required by subsection (a) of this section shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room therein.

Sec. 10-52. Responsibilities of owners and occupants.

(a) PUBLIC AREAS. Every owner of a dwelling containing two (2) or more dwelling units shall be responsible for maintaining a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(b) CLEANLINESS. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.

(c) RUBBISH AND GARBAGE. Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(d) SUPPLIED PLUMBING FIXTURES. Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of responsible care in the proper use and operation of same.

(e) CARE OF FACILITIES, EQUIPMENT AND STRUCTURE. No occupant shall willfully destroy, deface or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.

Sec. 10-53. Building inspector--Duties.

The building inspector is hereby designated as the officer to enforce the provisions of this article and to exercise the duties and powers herein prescribed. It shall be the duty of the building inspector:

(a) To investigate the dwelling conditions, and to inspect dwellings and dwelling units, located in the city, in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purposes of carrying out the objectives of this article with respect to such dwellings and dwelling units;

(b) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;

(c) To keep a record of the results of inspections made under this article and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed; and

(d) To perform such other duties as may be herein prescribed.

Sec. 10-54. Same--Powers.

The building inspector is authorize to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article, including the following powers in addition to others herein granted:

(a) To investigate the dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitation;

(b) To administer oaths and affirmations, examine witnesses and receive evidence;

(c) to enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and

(d) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purpose of this article.

Sec. 10-55. Inspections.

For the purpose of making inspections, the inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit or rooming unit, or the person in charge thereof, shall give the inspector free access to such dwelling, dwelling unit or rooming unit, and its premises at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this article.

Sec. 10-56. Enforcement of provisions.

(a) PRELIMINARY INVESTIGATION; NOTICE; HEARING. Whenever a petition is filed with the inspector by a public authority or by at least four (4) residents of the town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the inspector at a place therein fixed, not less than ten (10) nor more than thirty (30) days after the serving of such complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least four (4) of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.

(b) PROCEDURE AFTER HEARING. After such notice and hearing, the inspector shall state in writing his determination whether such dwelling or dwelling unit is unfit for human habitation, and if so, whether it is deteriorated or dilapidated.

If the inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article within a specified period of time, not to exceed ninety (90) days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations and improvements have been made.

If the inspector determines that the dwelling is dilapidated, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to vacate and close the dwelling, and to remove or demolish the same within a specified period of time, not to exceed ninety (90) days.

(c) FAILURE TO COMPLY WITH ORDER.

(1) IN PERSONAM REMEDY. If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the inspector to repair, alter or improve the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with an order of the inspector to vacate and close, and remove or demolish the same within the time specified therein, the inspector shall submit to the Town

Commission at its next regular meeting a resolution directing the town attorney to petition the superior court for an order directing such owner to comply with the order of the inspector, as authorized by the General Statutes of North Carolina, section 160A-441, et. seq.

(2) IN REM REMEDY. After failure of an owner of a deteriorated dwelling or dwelling unit, or of a dilapidated dwelling, to comply with an order of the inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding paragraph (1), the inspector shall request of the Town Commission an authorization ordering the inspector to cause such dwelling or dwelling unit to be repaired, altered, improved, or vacated and closed and removed or demolished, as provided in the original order of the inspector, and pending such removal or demolition, to placard such dwelling as provided by the General Statutes of north Carolina, section 160A-443 and section 10-58 of this article.

(d) APPEALS FROM ORDERS OF INSPECTOR. An appeal from any decision or order of the inspector may be taken by any person aggrieved thereby. Any appeal from the inspector shall be taken within ten (10) days from the rendering of the decision or service of the order, and shall be taken by filing with the inspector and with the Housing Appeals Board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the inspector shall forthwith transmit to said board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board, unless the inspector certifies to the board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his requirement would cause imminent peril to life of property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for the cause shown upon not less than one (1) day's written notice to the inspector, by the board, or by a court of record upon petition made pursuant to the General Statutes of North Carolina, section 160A-446 and subsection (e) of this section.

The board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the inspector, but the concurring vote of four (4) members of the board shall be necessary to reverse or

modify any decision or order of the inspector. The board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the article, to adapt the application for the article to the necessities for the case to the end that the spirit of the article shall be observed public safety and welfare secured and substantial justice done.

Every decision of the board shall be subject to review by proceedings in the nature of certiorari instituted within fifteen (15) days of the decision of the board, but not otherwise.

(e) PETITION TO SUPERIOR COURT BY OWNER. Any person aggrieved by an order issued by the inspector or a decision rendered by the board shall have the right, within thirty (30) days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the inspector pending a final disposition of the cause, as provided by the General Statutes of North Carolina, section 160A-446.

Sec. 10-57. Methods of service of complaints and orders.

Complaints or orders issued by the inspector shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the inspector in the exercise of reasonable diligence, the inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same once each week for two (2) successive weeks in a newspaper of general circulation in the town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

Sec. 10-58. In rem action by inspector; placarding.

After failure of an owner of a dwelling or dwelling unit to comply with an order of the inspector issued pursuant to the provisions of this article, and upon adoption by the Town Commission of an order authorizing and directing him to do so, as provided by the General Statutes of North Carolina, section 160A-443 and section 10-56 (c) of this article, the inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this article, or to be vacated and closed and removed or demolished, as directed by the order of the Town Commission and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."

Each such ordinance shall be recorded in the office of the register of deeds in the county wherein the property is located, and shall be indexed in the name of the property owner in the grantor index, as provided by the General Statutes of North Carolina, section 160A-443.

Sec. 10-59. Costs of repairs, alterations, etc., a lien against the property.

As provided by the General Statutes of North Carolina, section 160A-443, the amount of the cost of any repairs, alterations or improvements, or vacating and closing or removal or demolition, caused to be made or done by the inspector pursuant to section 10-58 of this article shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by articles 9 and 10 of chapter 160A of the General Statutes.

Sec. 10-60. Alternative remedies.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this article by criminal process as authorized by the General Statutes of North Carolina, section 14-4 and section 10-62 of this article, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

Sec. 10-61. Housing Appeals Board.

There is hereby created a housing appeals board to which appeals may be taken from decisions or orders of the inspector, as provided by section 10-56(d) of this article. The board shall consist of five members to serve for three year staggered terms. The board shall have power to elect its own officers, to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. the board shall perform the duties prescribed by section 10-56(d) and shall keep an accurate record of all its proceedings.

Sec. 10-62. Conflict with other provisions.

In the event any provision, standard or requirement of this article is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.

Sec. 10-63. Violations; penalty.

It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the inspector duly made and served as herein provided, within the time specified in such order, and each day that any such failure, neglect or refusal to comply with such order continues

shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to section 5-29, of this chapter, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement, or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

The violation of any provision of this chapter shall constitute a misdemeanor, as provided by the General Statutes of North Carolina, section 14-4.

THE FRANKLINVILLE TOWN CODE

ARTICLE VII

Dangerous Buildings

Sec. 10-64. Authority of building inspector, or Town Commission on appeal, to order repair, or demolition and removal of dangerous structures.

Whenever the existence of any building or structure, or part thereof, uninhabited or abandoned for use and which, due to its condition, is found and determined by the building inspector, or upon appeal from a report of the building inspector as hereinafter provided in this article, by the Town Commission, to be dangerous to life, health or other property, or is in such condition or is located in such proximity to other buildings as to constitute a fire or safety hazard or a public nuisance, the owner of such building shall be required to demolish and remove it and remedy such conditions under the regulations and procedures herein provided; and in the event such owner fails or refuses so to do with the time directed by the building inspector or by the Town Commission as provided in this article, the Town Commission may, in its judgment, cause such building or structure to be demolished and removed or such other steps taken as it may find to be necessary to suppress and abate the nuisance and remove the fire or safety hazard and the danger to life, health, or other property found to exist, and specially assess the cost and expense of doing such work against the lot or parcel of land on which the building is located.

Sec. 10-65. Notice to owner; public hearing.

Before any building or other structure may be ordered to be demolished and removed as provided in section 10-64, the building inspector shall notify the owner thereof, in writing, by certified or registered mail to the last known address of such owner, or by personal service of such notice by the building inspector or his assistant or by posting notice as hereinafter provided, that such building is in such condition as appears to constitute a fire or safety hazard or dangerous to life, health, or other property, or to be a public nuisance, and that a hearing will be held before the building inspector at a designated place in the municipal building at a time not less than ten (10) days after the date of such written notice, at which time and place the owner shall be entitled to be heard in person or by counsel upon all legal or factual questions relating to the matter and shall be entitled to offer such evidence as he may desire which is relevant or material to the questions sought to be determined or the remedies sought to be effected. If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice herein referred to shall be considered properly and adequately served if a copy thereof is posted on the outside of one building in question at least ten (10) days prior to the date fixed for the hearing and is published one

(1) time in a newspaper published in the city at least one (1) week prior to the date fixed for such hearing. Such notice shall state the address or location of the building and the time, place, and purpose of the hearing.

Sec. 10-66. Order of building inspector to owner.

If, upon the hearing as provided for in section 10-65, the building inspector shall find that the building or structure in question is in such a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard or to be dangerous to life, health, or other property, or is a public nuisance, he shall make an order in writing, directed to the owner of such building, requiring the owner to remedy such conditions so found to exist by demolishing and removing such building or taking such other steps as may be necessary to abate the nuisance and remove the hazards within such period, not less than sixty (60) days, as the building inspector may prescribe.

Sec. 10-67. Appeal from order of building inspector.

The owner of any building ordered by the building inspector to be demolished and removed, or who is directed by the building inspector to take any other steps to abate a nuisance or remove hazards found by the building inspector to exist, shall have the right of appeal from such order to the Town Commission; provided, that such owner gives notice of appeal to the building inspector at the time of the hearing at which the order is made, or within ten (10) days after such order is made files with the building inspector a written notice of such appeal. Notice of appeal shall state the grounds therefor. Unless an appeal is taken within the time and in the manner herein prescribed, the action of the building inspector shall be deemed final, subject only to such action as the Town Commission may take as provided in this article. Where an appeal has been properly taken and notice thereof given in accordance with the provisions of this section, it shall be the duty of the building inspector to report the appeal to the Town Clerk, who shall cause the matter to be placed on the agenda for action by the Town Commission at its next ensuing regular meeting. The Town Commission shall have the right to continue the hearing of the appeal from time to time, in its discretion.

Sec. 10-68. Procedure when no appeal taken and owner fails to comply with order.

In the event the owner does not appeal from the final order or direction of the building inspector requiring that the building be demolished and removed or the taking or such other steps as may be required to abate the nuisance and remove the hazards, and description or refuses to comply with such order and direction, it shall be the duty of the building inspector to file a written report thereof with the Town Commission, who shall cause such report to be placed on the agenda for action by the Town Commission at its next ensuing regular meeting or to some subsequent meeting

to which the Town Commission may continue the case. The building inspector shall mail a copy of such report by certified or registered mail to the owner at his last known address, or have a copy thereof delivered to the owner. Such report shall specify the date of the meeting of the Town Commission at which the matter will be brought up for action thereon.

Sec. 10-69. Action by town to abate hazard, at expense of owner; lien created; remedy of town to collect expenses.

In all cases referred to in this article which reach the Town Commission council for action, either upon appeal of the owner from the ruling of the building inspector or upon report of the building inspector that the owner fails or refuses to comply with his order or direction, the Town Commission shall hear the matter, and if it finds and determines that the building in question is uninhabited or abandoned for use, and is in such a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard or to be dangerous to life, health or other property, or is a public nuisance, and that the owner of the building has failed or refused to abate the nuisance and has failed or refused to have the building demolished and removed or has failed or refused to take such other steps as may be necessary to abate the nuisance and remove the hazards found to exist, it may cause the demolition and removal of such building to be done, or effect such other remedies as may be necessary to abate the nuisance and remove the hazards, and specially assess the cost of such work against the lot or parcel of land on which the building was situate; and such assessment shall constitute a specific lien upon such lot or parcel of land on which the building was situate; and such assessment shall constitute a specific lien upon such lot or parcel of land, which may be enforced by an action instituted in the name of the town in the nature of an action to foreclose a mortgage as provided by the General Statutes of North Carolina, section 105-349, et.seq., in the case of ad valorem taxes and local improvement assessments.

Sec. 10-70. Notice to owner before hearing by Town Commission.

In cases in which the building inspector has been unable to give to the owner actual notice of hearing in the manner hereinabove provided in this article, and has given such notice by posting and publishing the notice as authorized in section 10-65, and the owner has failed or refused to comply with the order or direction of the building inspector to demolish and remove the building, or take such other remedial action as will remove the hazards, and such case is referred to the Town Commission for action, the Town Commission shall, before taking such action, cause to be posted on the outside of the building in question at least ten (10) days prior to the date fixed for the hearing, and published one (1) time in a newspaper of general circulation in the town at least one (1) week prior to the date fixed for such hearing, a written notice stating the address or location of the building involved and the time, place, and purpose of the hearing,

and such other information as the Town Commission may deem advisable.

Sec. 10-71. Presumptions raised by order of Town Commission to demolish or repair building.

In all cases in which the Town Commission causes the demolition and removal of any building to be carried out, or directs such other remedial steps to be taken as may be necessary to abate the nuisance and remove the hazards, it shall be conclusively presumed that the public nuisance and the fire and safety hazard and danger to life, health or other property, created and maintained by the continued presence of the building in such condition as is found to exist, constitute a clear and present danger amounting to a situation of emergency involving the public health, safety and general welfare which requires entry upon private property for the summary abatement and removal of such danger, in the public interest.

Sec. 10-72. Compliance with final order of building inspector of Town Commission required.

It shall be unlawful for any person to willfully fail or refuse to comply with any final order or directive of the building inspector or the Town Commission made by virtue and in pursuance of this article, and any person violating this article shall, upon conviction, be punished as provided by section 10-63.

Sec. 10-73. Effect of article.

This article is in addition to, and not in substitution for, any other article or chapter of this Code affecting the same subject matter.

THE FRANKLINVILLE TOWN CODE

Article VIII

Abandoned Buildings.

Sec. 10-74. Findings; intent of article.

There exist within the town abandoned structures which the city council finds to be hazardous to the health, safety and welfare of the residents of the city, due to:

- (a) The attraction of insects and rodents,
- (b) Conditions creating a fire hazard,
- (c) Dangerous conditions constituting a threat to children,
or
- (d) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

Therefore, pursuant to the authority granted by General Statutes of North Carolina, section 160A-441, it is the intent of this article to provide for the repair, closing or demolition of any such abandoned structures in accordance with the same provisions and procedures, as set forth in sections 10-56 through 10-63 of this Code, for the repair, closing or demolition of dwellings unfit for human habitation.

Sec. 10-75. Definitions.

The definitions contained in section 10-43 of this Code shall apply in the interpretation and enforcement of this article.

Sec. 10-76. Building inspector -- Duties generally.

The building inspector is hereby designated as the town officer to enforce the provisions of this article. It shall be the duty of the building inspector or his agent:

- (a) To locate abandoned structures within the city and determine which structures are in violation of this article.
- (b) To take such action pursuant to this article as may be necessary to provide for the repair, closing or demolition of such structures.
- (c) To keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this article.
- (d) To perform such other duties as may be prescribed herein or assigned to him by the Town Commission.

Sec. 10-77. Same -- Powers generally.

The building inspector or his agent is authorized to exercise such powers as may be necessary to carry out the intent and the provisions of this article, including the following powers in addition to others herein granted:

(a) To investigate the condition of buildings within the town in order to determine which structures are abandoned and in violation of this article.

(b) To enter upon premises for the purpose of making inspections.

(c) To administer oaths and affirmations, examine witnesses and receive evidence.

(d) To designate such other officers, agents and employees of the town as he deems necessary to carry out the provisions of this article.

Sec. 10-78. Enforcement -- Standards.

(a) CONDITIONS CONSTITUTING VIOLATION OF ARTICLE. Every abandoned structure within the town shall be deemed in violation of this article whenever such structure constitutes a hazard to the health, safety or welfare of the town residents as a result of:

- (1) The attraction of insects or rodents;
- (2) Conditions creating a fire hazard;
- (3) Dangerous conditions constituting a threat to children; or
- (4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

(d) DETERMINATION FACTORS. In making the preliminary determination of whether or not an abandoned structure is in violation of this article, the building inspector may, by way of illustration and not limitation, consider the presence or absence of the following conditions:

- (1) Holes or cracks in the structure's floors, walls, ceilings or roof which might attract or admit rodents and insects or become breeding places for rodents and insects;
- (2) The collection of garbage or rubbish in or near the structure which might attract rodents and insects or become breeding places for rodents or insects;
- (3) Violation of the state building code, the state electrical code or the fire prevention code, which constitutes a fire hazard in such structures;
- (4) The collection of garbage, rubbish or combustible material which constitutes a fire hazard in such structure;
- (5) The use of such structure or nearby grounds or facilities by children as a play area;
- (6) Violations of the state building code or sections 10-45 through 10-50 of this Code which might result in danger to children using the structure or nearby grounds or facilities as a play area; and

- (7) Repeated use of such structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking or eating.

Sec. 10-79. Same--Procedure.

Whenever a petition is filed with the building inspector by a public authority or by at least four (4) residents of the city, charging that any abandoned structure is in violation of this article, or whenever the building inspector determines, upon inspection, that any abandoned structure is in violation of this article, he shall, by service of a complaint and notice of hearing, initiate the procedure for enforcement contained in section 10-56 of this Code. In all relevant respects, the procedure for enforcement of this article shall be identical to that contained in sections 10-56 through 10-60 of this Code.

Sec. 10-80. Violations of article.

It shall be unlawful for the owner of any abandoned structure to fail, neglect or refuse to repair, alter or improve such structure or to vacate, close and remove or demolish such structure upon order of the building inspector duly made and served, within the time specified in such order. Each day that any such failure, neglect or refusal to comply with such order contains shall constitute a separate and distinct offense.

The violation of any provision of this article shall constitute a misdemeanor, as provided by General Statutes of North Carolina, section 14-4.

THE FRANKLINVILLE TOWN CODE

ARTICLE II

Abatement of public Nuisances*

Sec. 10-81. Conditions constituting public nuisances.

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 twenty-four (24) inches causing or threatening to cause a hazard detrimental to the public health or safety.

(b) Any accumulation of rubbish, trash or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health.

(c) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by 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) The upper storage of any abandoned ice box, refrigerator, stove, glass, building material, building rubbish or similar items.

(e) Any condition detrimental to the public health which violates the rules and regulations of the county health department.

Sec. 10-82. Investigation.

The Building Inspector, upon notice from any person of the possible existence of any of the conditions described in Section 10-81, shall cause to be made by the appropriate county health department official, or town official, such investigation as may be necessary to determine whether conditions exist which may constitute a public nuisance as declared in Section 10-81.

Sec. 10-83. Notice; hearing.

If it appears that such conditions exist, the Building Inspector shall cause to be delivered or mailed to the owner of the property upon which the conditions exist a notice stating the reasons why the conditions may constitute a violation and that a hearing will be held before the Building Inspector at a place therein fixed not less than ten (10) nor more than thirty (30) days after the delivery or mailing of the notice. The owner or any party in interest shall have the right to file an answer to the notice and to appear in person, or otherwise, and give evidence at

the place and time fixed in the notice. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in such hearings.

Sec. 10-84. Determination of nuisance conditions; notice to abate.

If a determination is made that such conditions constituting a public nuisance exist, the Building Inspector shall notify, in writing, the owner of the premises in question of the conditions constituting such public nuisance and shall order the prompt abatement thereof within fifteen (15) days from the receipt of such written notice.

Sec. 10-85. Abatement by town.

If the owner, having been ordered to abate such a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within fifteen (15) days from receipt of said order, the Building Inspector shall cause said condition to be removed or otherwise remedied by having employees of the town to go upon said premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the Building Inspector. Any person who has been ordered to abate a public nuisance may, within the time allowed by this article, request the town in writing to remove such condition, the cost of which shall be paid by the person making such request.

Sec. 10-86. Cost for abatement by town.

The actual cost incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of such lot or parcel of land, and it shall be the duty of the town clerk to mail a statement to such premises with instructions that such charges are due and payable within thirty (30) days from the receipt thereof.

Sec. 10-87. Lien.

In the event charges for the removal or abatement of a public nuisance are not paid within thirty (30) days after the receipt of a statement of charges as provided for in Section 10-86 of this article, such 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 General Statutes, Section 160A-193.

Sec. 10-88. Abatement procedure additional to other remedies.

The procedure set forth in this article shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this article shall not prevent the town from proceeding in a criminal action against any person, firm or corporation violating the provisions of this article as provided in General Statutes, Section 14-4.

CHAPTER 7

STREETS AND SIDEWALKS

Article I

OBSTRUCTIONS

Section 7-1 Obstructions Prohibited.

(a) Except as otherwise authorized by statute or ordinance (including Sections 7-11 and 7-12 of this chapter), and except to the extent required by the performance of some function authorized or mandated by a statute or ordinance, no person may obstruct or impede travel in the public streets or sidewalks within the town by placing or leaving any object within the traveled portion of the public right-of-way.

(b) Except as provided in this subsection, subsection (a) applies, but is not limited to, goods, wares, or merchandise displayed for sale. Partial obstruction of a public sidewalk for a sidewalk is permissible in accordance with a permit issued by the administrator upon a finding that:

- (1) The sale will not extend for more than three consecutive days' and
- (2) The obstruction will take place only during daylight hours; and
- (3) The permit, together with any other permits issued to the same applicant or to other applicants for sale at the same location, will not authorize an obstruction for more than ten days during any 365-day period; and
- (4) The sidewalk will only be partially obstructed in a manner that does not seriously inconvenience the public or threaten the public safety.

(c) Subsection (a) shall not apply to temporary obstructions caused by persons engaged in construction work on abutting property when proper warning devices are maintained in accordance with Section 7-4.

Section 7-2 Overhanging or Protruding Trees, Shrubs, Fences, et Cetera.

(a) No person may cause or allow (from property under his control) any tree limb, bush, shrub, or other growth or any trellis, fence or other obstruction to overhang a public street at a distance of less than 12 feet above the traveled portion of such street or a public sidewalk at a distance of less than 7 feet above such sidewalk.

(b) No person may cause or allow grass, vines, weeds, or other vegetation to grow from property under his control over, onto, or across any public street or sidewalk.

(c) Any violation of subsection (a) or (b) is declared to be a public nuisance, and if not corrected by the responsible person within three days after being notified of the violation by the administrator, the town may summarily abate such nuisance.

Section 7-3 Drainage Related Interference with Sidewalks.

(a) No person may cause or permit gutters, ditches, ducts, or drain pipes to be constructed or placed on property under his control in such a manner that the water from such gutters, ditches, ducts, or drain pipes empties onto or runs across a public sidewalk.

(b) Subject to the next sentence, all owners of property abutting concrete, brick, or other permanently improved public sidewalks shall grade such property or construct a retaining wall in such a manner as to prevent the washing of dirt, grass, gravel, or other material upon the town sidewalks. If the town constructs a sidewalk, it shall be responsible initially for taking the necessary steps to prevent the washing of such materials upon the sidewalk.

Section 7-4 Warnings Required for Obstructions.

(a) All persons engaged in doing work that creates any dangerous condition or obstruction in the public right-of-way of any street or sidewalk shall take whatever action is necessary, including the placement of barricades and warning signs or devices, to warn the traveling public of the condition or obstruction.

(b) No person may remove, destroy, injure, or tamper with any barricade, sign, lantern, torch, or other device placed in any street or sidewalk to warn or give notice to the traveling public of any dangerous condition or obstruction.

Section 7-5 Depositing Injurious Materials on Street.

(a) No person may throw or deposit upon any street or public right-of-way any glass bottle, nails, tacks, wire, paper containers, cans, or any other substance likely to injure any person, animal or vehicle.

(b) Any person who deliberately or inadvertantly causes or allows any of the materials specified in subsection (a) to be deposited on any public street or right-of-way shall immediately remove such materials or cause them to be removed.

Section 7-6 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 similar obstruction from such sidewalk at the earliest possible time and as soon as the weather permits.

(c) Before granting a permit pursuant to this section, the administrator shall determine that the applicant has made arrangements to comply with subsection (b), and if the town is to do the necessary repair work, the permit shall not be issued until the applicant makes a deposit equal to the estimated costs of repair.

(d) This section shall not apply to any utility to the extent that the same subject matter is covered in a franchise ordinance applicable to that utility. Nor shall this section apply to any excavation made in a state-maintained street to the extent that the state has given its permission for such an excavation to be made, except that the person making the excavation shall still be responsible for notifying the administrator of the intended excavation forty-eight hours before the work begins.

Section 7-13 Town Indemnified.

Any person obtaining a permit authorized by Sections 7-11 (driveways) and 7-12 (Excavations) agrees as a condition of the permit to identify the town for and hold the town harmless from any expense (including but not limited to attorney's fees, litigation costs and judgments) incurred as a result of claims made for damages arising out of operations conducted by the permit recipient pursuant to the permit.

Sections 7-14, 7-15 Reserved.

Article III

STREET EVENTS

Section 7-16 Activities Covered.

This article applies to all street fairs, festivals, carnivals, parades, marches, rallies, demonstrations, and other activities or public events that require the temporary closing or obstruction of all or a portion of any street or other public right-of-way or that substantially hinders or prevents the normal flow of vehicular or pedestrian traffic along any street or other public right-of-way. Any such activity covered by this article shall hereafter be referred to as "the event."

Section 7-17 Permit Required.

No person may run, operate, or sponsor any event in any public street or right-of-way without a permit obtained from the Board in accordance with this article.

Section 7-18 Permit Application.

Applications for the permit authorized by this article shall be submitted on a form provided by the administrator and shall contain the following information:

- (1) Name, address, and telephone number of the person, organization or entity seeking to conduct or sponsor the event;
- (2) Name, address, and telephone number of the individual in charge of the event;
- (3) The proposed date and time period when the event will be conducted;
- (4) A sketch-map showing:
 - a. The area where the event is to take place.
 - b. Any streets to be closed or obstructed.
 - c. Any barriers or traffic control devices that will be erected.
 - d. The location of any concession stand, booth, or other temporary structures or facilities.
 - e. The location of proposed fences, stands, platforms, benches, or bleachers.
- (5) The approximate number of people expected to attend the event;
- (6) When applicable, a request that the town provide specified services and/or that the town close identified streets or portions of streets for a particular period;
- (7) Sufficient proof of liability insurance in accordance with Section 7-21;
- (8) Any other information determined by the administrator to be necessary to insure compliance with this article.

Section 7-19 Notice and Public Hearing

(a) Before issuing a permit under this article, the Board shall hold a public hearing on the permit application. This hearing may be held at any regular or special meeting.

(b) Notice of the public hearing shall be published in a manner determined by the administrator to be reasonable calculated to inform the following persons of the date, time, and place, as well as the subject matter of the hearing:

- (1) The applicant;
- (2) All persons occupying property that abuts any street where the event is to take place;

(3) The general public.

Section 7-20 Staff Review.

Upon receipt of the permit application, the administrator shall circulate it to the police chief, the fire chief, the public works director, and other appropriate persons for their comment. The administrator may arrange to have a conference on the application with the applicant and the Board.

Section 7-21 Insurance.

The Board may require as a condition precedent or subsequent to issuance of the permit that the applicant obtain a comprehensive general liability insurance policy or comparable special events liability insurance policy issued by an insurance company authorized to do business in this state, with coverage that includes the entire area of the event. If such a policy is required, the town shall be named as an additional insured on the policy. The policy limits of such insurance shall be not less than:

Property damage	\$50,000 for each occurrence
Bodily injury or death	\$100,000 for each person
	\$300,000 for each occurrence

Section 7-22 Fees; Costs Incurred by Town.

(a) A basic minimum fee sufficient to cover the cost of advertising the public hearing in accordance with Subsection 7-19 (b) and to provide the notification required by Subsection 7-24 (d) shall be paid by the applicant. The amount of this fee shall be based upon an estimate of the expenses that will actually be incurred to provide the required notices.

(b) In addition, if the town is required to provide extraordinary services or equipment or the town administration otherwise determines that extraordinary services or equipment should be provided for reasons related to public health or safety, the Board shall take whatever action is necessary under the Local Government Budget and Fiscal Control Act to make available the necessary funds for the provision of such services or equipment.

(c) The Board may require the applicant to pay to the town a fee sufficient to reimburse the town for the costs of any extraordinary services or equipment provided unless the event has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.

Section 7-23 Standards for Issuance of Permit.

(a) The Board shall issue the permit authorizing the event unless it finds that:

- (1) Conduct of the event will require the assignment of so many police officers that the remainder of the town cannot adequately be protected; or
- (2) The event will interfere with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided throughout the town; or
- (3) The applicant has failed to obtain any necessary permits or licenses, including any required building permit or privilege license, or the applicant is otherwise in violation of any town ordinance; or
- (4) The event will work a severe hardship on persons occupying property adjacent to the site, location, or route of the event as a result of the denial of access to property or for other substantial reasons; or
- (5) The event, if held at the time or at the location or along the route proposed, will cause an unreasonable and unwarranted disruption to vehicular or pedestrian traffic; or
- (6) The applicant has failed to comply with any of the provisions of this article, including the payment of any fees required.

(b) If a permit is issued in accordance with subsection (a), the Board may attach to it any reasonable conditions.

(c) If the Board finds that it cannot issue the permit for reasons specified in subsection (a), it may request the applicant to modify its application to remove any objections to the issuance of the permit, and the applicant may do so without further notice or hearing.

(d) Any event conducted pursuant to a permit issued under this section shall be conducted strictly in accordance with the terms of the permit, including any conditions attached thereto.

Section 7-24 Street Closings.

(a) If the Board finds that the permit should be issued and that, to conduct the event, it is necessary to close a street or to reroute traffic, it may pass a resolution authorizing this to be done. No such resolution shall be passed affecting streets that are part of the state street system without the approval of the State Department of Transportation.

(b) The resolution shall identify the street or portion thereof to be affected and shall indicate the date and time when the streets or portion thereof is to be closed or traffic thereon is to be limited in some way. The resolution shall also direct the manager to have appropriate traffic control devices installed to give notice of the temporary traffic controls.

(c) No person may operate any vehicle contrary to the traffic control devices installed in accordance with subsection (b).

(d) The administrator shall, by any adequate means, notify persons occupying property abutting the street where the event is to take place of the contents of any resolution passed in accordance with this section.

Section 7-25 Sponsor Responsible for Cleanup.

The sponsor of the event shall be responsible for cleaning up any litter caused by the event, removing all temporary obstructions, and in general returning the area where the event takes place to the condition that existed prior to the event. The Board may require the sponsor to post a bond or other sufficient security to guarantee compliance with this section.

Sections 7-26 through 7-30 Reserved.

Article IV

MISCELLANEOUS

Section 7-31 Damaging Street Surfaces, Street Signs, Other Facilities.

(a) No person may intentionally mutilate, deface, remove, damage, or in any manner interfere with any of the street name signs, traffic control signs and devices, and other signs erected by any public body.

(b) No person may drag, run, or cause to drag or run upon any public street any harrow or other implement, machine, or tool likely to injure or cut the surface of such street.

(c) No person may intentionally damage, injure, obstruct or otherwise interfere with any street, sidewalk, bridge, culvert, ditch or drain owned or maintained by the town.

Section 7-32 House and Building Numbers.

(a) The owner of every house and every principal building shall display or cause to be displayed on the front thereof, or on the grounds in a position easily observed from the street, the number assigned to his house or building by the administrator.

(b) No person may display or cause to be displayed on any house or building any number other than the number assigned by the administrator.

(c) No person may remove, obliterate, or destroy any number displayed in accordance with subsection (a).

Section 7-33 Administrator.

As used in this chapter, the term "administrator" refers to the public works director or any other person designated by the mayor to

perform the responsibilities assigned to the administrator by this chapter.

Section 7-34 Penalties and Remedies

(a) A violation of any of the following sections shall constitute a misdemeanor, punishable as provided in G.S. 14-4: All sections of Article I and Article II; Sections 7-17, 7-23(d), 7-24(c), and 7-25 of Article III; and Sections 7-31 and 7-32 of Article IV.

(b) A violation of any of the sections listed in subsection (a) shall also subject the offender to a civil penalty of twenty-five dollars (\$25.00). If a person fails to pay this penalty within ten days after being cited for a violation, the town may seek to recover the penalty by filing a civil action in the nature of debt.

(c) The town may seek to enforce this chapter through any appropriate equitable action.

(d) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

(e) The town may seek to enforce this chapter by using any one or any combination of the foregoing remedies.

Adopted & effective
July 2005

WATER & SEWER BILLING NOTIFICATION

- ALL BILLS WILL BE MAILED ON THE LAST BUSINESS DAY OF THE MONTH.
- ALL BILLS ARE DUE ON THE 15TH OF THE MONTH.
- PENALTIES WILL BE ADDED ON THE 16TH OF THE MONTH.
- WHEN PENALTIES ARE ADDED TO THE BILL, YOU MUST PAY THE FULL AMOUNT (BILL PLUS THE 20% PENALTY).
IF PENALTY IS NOT PAID – WATER CAN BE DISCONNECTED.
- TO AVOID CUT-OFF BILL MUST BE PAID BY 5:00 PM ON THE 24TH.
- WATER CAN BE TURNED OFF AS EARLY AS 9:00 AM ON THE 25TH.
- THERE IS A \$35.00 RECONNECTION FEE IF WATER IS TURNED OFF DUE TO
- NON-PAYMENT.
- THERE WILL BE NO SECOND NOTICE, OR CUT-OFF NOTICES SENT TO YOU.
- NO EXTENSIONS WILL BE GIVEN.
- FAILURE TO RECEIVE BILL IN MAIL DOES NOT EXCUSE RESPONSIBILITY FOR ON-TIME PAYMENT.
- A DROP BOX IS AVAILABLE AT TOWN HALL.
- PLEASE BRING BILL WHEN PAYING IN PERSON OR SEND STUB WHEN MAILING PAYMENT.
- YOU MAY CALL 824-2604 FOR YOUR BALANCE.

Beginning July 1, 2005 Meter Tampering Charges will be incurred by anyone tampering with Water Meters. The following charges will apply:

➤First Occurrence	\$50.00
➤Second Occurrence	\$100.00
➤Third Occurrence	\$200.00
➤Each Addition	\$500.00
➤Broken or Stolen Lock	\$15.00 (+) applicable tampering
➤Broken or Stolen Water Meter	\$100.00 (+) applicable tampering
➤Attempting to Alter Meter Readings	\$50.00 (+) applicable tampering
➤Straight piping or Bypassing Water Meter	\$100.00 (+) applicable tampering

January 8, 2008 @ 7:30 PM

08-18 Public Works Report

The Board Members discussed the cost of meters and the current fees for meter damages.

Commissioner Conner made a motion to change the fee schedule from \$50 to \$100 for meter tampering and damaged meter fine from \$100 to \$200. Commissioner Hurley seconded the motion which passed unanimously.

WATER & SEWER BILLING NOTIFICATION

- ALL BILLS WILL BE MAILED ON THE LAST BUSINESS DAY OF THE MONTH.
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- NO EXTENSIONS WILL BE GIVEN.
- FAILURE TO RECEIVE BILL IN THE MAIL DOES NOT EXCUSE RESPONSIBILITY FOR ON-TIME PAYMENT.
- A DROP BOX IS AVAILABLE AT TOWN HALL.
- PLEASE BRING BILL WHEN PAYING IN PERSON OR SEND STUB WHEN MAILING PAYMENT.
- YOU MAY CALL 824-2604 FOR YOUR BALANCE.

Beginning JANUARY 9, 2008 Meter Tampering Charges will be incurred by anyone tampering with Water Meters. The following charges will apply:

First Occurrence	\$100.00	Tampering/Meter Fines changed
Second Occurrence	\$200.00	
Third Occurrence	\$300.00	
Each Addition	\$500.00	
Broken or Stolen Lock	\$15.00 (+) applicable tampering	
Broken or Stolen Water Meter	\$200.00 (+) applicable tampering	
Attempting to Alter Meter Readings	\$50.00 (+) applicable tampering	
Straight piping or Bypassing Water Meter	\$100.00 (+) applicable tampering	

(e) The town shall clearly identify which meter serves which customer when two or more meters are installed in the same premises for different customers.

(f) Readings from different meters will not be combined for billing, regardless of the fact that the meters may be for the same or different premises, or for the same or different customers, or for the same or different services.

(g) Bills.

- (1) Bills are due within 20 days of the date of billing and become delinquent thereafter whereupon a finance charge of 20% per month on the unpaid balance will be added.
- (2) Where there are multiple dwelling units on one lot, unless separate meters are installed for individual dwelling units, the property owner or landlord shall be responsible for the bill for meters jointly used by one or more tenants.

Section 12-7 Town Property and Maintenance Thereof.

(a) All meters and cut off boxes located before the meters shall be and remain property of the town.

(b) All meters except such as are required to be furnished by particular users of water shall be kept in good repair and working order by the town, and at the expense of the town. However, charges for damage caused to the meter by the customer shall be added to the customer's bill. Meters furnished by particular users of water shall be kept in good repair and working order by the town.

Section 12-8 Meter Testing.

If the customer believes that a water meter on his premises is not registering his water consumption accurately, he may request a test of the meter by the town. The standard for meter accuracy is + 2.5%.

Section 12-9 Inoperative Meter: Procedure.

If the seal of the meter is broken by other than the town's representatives or in the event that the meter fails to register the use of water, the customer shall be charged the amount computed using the appropriate following formula for the period in which the meter failed to register:

- (1) If the customer has been an occupant at the same location for three (3) years or more he shall be charged the current rate based upon the average water consumption for the same month during the previous years of occupancy.
- (2) If the customer has been an occupant at the same location for less than three (3) years he shall be charged the

WATER RATES PER 1000 GALLONS

<u>Inside Town Limits</u>		<u>Outside Town Limits</u>		<u>Gallon Schedule</u>
<u>Residential</u>	<u>Commercial</u>	<u>Residential</u>	<u>Commercial</u>	
(\$9.40)	(\$ 14.70)	(\$ 14.10)	(\$ 18.38)	(Minimum bill)
4.70	7.35	7.05	9.19	First 2000
1.75	2.00	2.63	2.50	Next 8000
1.00	1.50	1.50	1.88	Next 10,000
.75	1.15	1.13	1.44	Next 30,000
.50	1.00	.75	1.25	Next 50,000
.45	.75	.68	.94	All over 100,000

TAP-ON FEE PER CONNECTION

Three-Fourths-Inch Line

\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00
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One-Inch Line

\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00
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Section 12-5 Service Charge or Minimum Charge.

(a) The service 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) The service charge per meter shall apply to all occupied residential units.

Section 12-6 Meter Reading; Billing; Collecting.

(a) Duly authorized agents of the town shall have access at all reasonable hours to the premises of the customer for the purpose of installing or removing town property, inspecting piping or apparatus, reading or testing meters or for any other purpose in connection with the town's service or facilities. Application for service shall constitute consent by the customer to access to his premises for these purposes.

(b) Meters will be read once per month and bills rendered once per month, yet the town reserves the right to vary the length of period covered, temporarily or permanently if necessary or desirable.

(c) Bills for water service will be figured in accordance with the town's rate schedule then in effect. A charge shall be made for all water passing through the customer's water meter.

(d) Charges for service commence when the meter is installed and connection made, whether used or not.

05-208 Athletic Association

Town Hall has relinquished responsibility of the Athletic Association checking account. (See attached letter to Freddie Davenport) The clerk informed the board of the reservation form being used and charges to rent the ball field for the fall season. This will need to be re-examined prior to the spring ball season to make proper adjustments. (See attached reservation form)

05-209 Bank Building

Mayor Whatley and Arnold Allred are to meet next week concerning the old bank building. The Cofer studies, the grant applications and the Tri-Tech studies will be reviewed.

05-210 Water & Sewer (See Public Works Report attached)

- State Inspection completed—good report
- Ramseur's Hwy 64 water tank out of service for repairs to a leak. Franklinville's tank is being kept full, but they cannot draw back out of our tank. There are no problems at this time providing water to Deep River Haven Mobile Home Park.
- Sewer plant aerator in shop for repairs. Commissioner Pugh looking at cost to install a variable speed, soft start (approx. cost \$850-900). Commissioner Dunn made a motion to get Commissioner Pugh of Randolph Boiler & Mechanical to work on getting the variable speed, soft start installed. Commissioner Hurley seconded the motion which passed by unanimous vote.
- 2-Service water lines sleeved and repaired at 699 Academy St.
- Commissioner Pugh reported that Progress Energy Engineers will be looking at the power concerns at the Main St. pump station.
- Arnold Allred reported that the water plant said that we had a major leak, which was never found. The tank was down 50,000 gallons. There have been no problems since.

05-211 Streets

Allred St. continues to have drainage problems.

05-212 Landlord Deposits / Charges between tenants

The clerk submitted a survey of area cities regarding Landlord Deposits and charges for water used between tenants. (See attachment) Since the water usage between tenants is minimal, Commissioner Dunn made a motion to add the water usage and charges to the new tenant. The motion was seconded by Commissioner Hurley and passed by unanimous vote. The existing landlord deposits will be left on the books and will remain at \$40.00 for water only and \$80.00 for water and sewer.

05-213 Adjourn Meeting

There being no further business to discuss Commissioner Dunn made a motion to adjourn the meeting. Commissioner Hurley seconded the motion and the meeting was so adjourned.

CHAPTER 12

UTILITIES

Article I

*According to Water Supply
Rules & Regulations*

SERVICE REGULATIONS

Section 12-1 Application for Service

Application for water service shall be made at Town Hall. Application shall be made on the forms prescribed and shall be signed by the owner or occupant of the property or by his authorized agent. Deposits pursuant to Section 1-23 are due upon application.

Section 12-2 Rejection by Town.

(a) The town shall reject an application for service if there is an outstanding amount due the town for water service at the applicant's previous address.

(b) Notwithstanding (a) above a lessee of a dwelling or structure making an initial application for service at that address shall not be refused service by the town for an outstanding amount owed the town at the location for which he is applying for service.

Section 12-3 Deposit.

(a) For residential use a minimum cash deposit of fifteen dollars (\$15.00) will be required. For commercial and industrial use a minimum of fifteen dollars (\$15.00) will be required.

(b) A separate deposit shall be paid on each installed water meter.

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

(d) Interest shall not be paid on the deposit.

(e) The deposit receipt is not negotiable and can be rendered only at Town Hall.

(f) Where the town finds that a request for a deposit refund is questionable the town may require the applicant, for refund, to produce the deposit receipt properly endorsed.

Section 12-4 Rates.

**Minutes of a Meeting of
The Board of Commissioners of
The Town of Franklinville, North Carolina,
Held on August 13, 2002**

Present:

Mayor:	Mac Whatley
Clerk:	Nancy Granger
Deputy Clerk:	Vickie Burgess
Commissioners:	A.C. Hurley, Paul Dunn, Jeff Thomas and Randy Pugh
Media:	Kerry Kessler
Employees & Visitors:	Mark Grose, Arnold Allred, Lydia Craven, Priscilla Dunn, Bettina Moriarity, Sarah Busmire, Lisa Edmundson, Richard Granger, Brian Lewis, Brianna Lewis, Tina Stout and Linda Joyce

02-131

To Order/Minutes

The mayor called the meeting to order at the appointed time. Commissioner Hurley made a motion to approve the minutes as submitted, and was seconded by Commissioner Pugh. The motion passed unanimously.

02-132

Finance Statement/Budget Amendment

A motion to approve the financial report and budget amendment was made by Commissioner Hurley. Commissioner Pugh seconded the motion, which passed by unanimous vote. Copies are attached. The Clerk noted that auditors had completed their examination of the Town's financial records and should prepare the audit statement soon.

02-133

Planning and Zoning

Mayor Whatley stated that he had met with the Planning Board and Paul Kron of the Piedmont Triad Council of Governments, for final revisions of the new planning ordinance. According to the Mayor, the ordinance should be ready for approval at the September Board Meeting. Priscilla Dunn read a letter of appreciation to Nancy Granger, for her work with the Planning Board. Mrs. Dunn then asked the Board to appoint Sammy Jones interim planning enforcement officer. Mayor Whatley made the appointment with no objections from the Board.

02-138

Water/Shortage

Commissioner Pugh stated that Ramseur Lake was down 17.5 inches. According to Mr. Grose, Ramseur is considering an emergency water ordinance. Mayor Whatley will discuss a similar ordinance with Ogburn Yates.

02-139

Water/Billing

Mrs. Burgess stated that our software program will not generate past due notices and regular billings. In order to do past due notices on the computer, Mrs. Burgess would have to do two billings in one month. Commissioner Hurley made a motion to change the due date for current bills to the 15th of the month, and for the bills to be considered past due on the 25th of the same month. Commissioner Pugh seconded the motion, which passed by unanimous vote.

02-140

Sewer

According to Arnold Allred, sewer tests are remaining in compliance.

02-141

New Water/Sewer Lines

Mayor Whatley will meet with the Britts on August 14th to go over details of the new line on Highway 64 and Faith Rock Road.

02-142

Sewer Land Trade

Mayor Whatley, asking to speak as a private citizen, stated that a portion of the sewer plant is built on land he owns. Mr. Whatley provided a survey of the land for the Commissioners' review. Mayor Whatley stated that he was willing to trade the portion of his land on which the plant is located for a portion of land owned by the Town of equal value. Commissioner Dunn made a motion to have the land surveyed, and to accept the offer to trade from Mayor Whatley. Commissioner Pugh seconded the motion, which passed by unanimous vote.

02-143

Paving

Mayor Whatley noted that the paving on Sunrise Avenue looked good. Mr. Grose stated that back fill was not completed. He added that a tractor-trailer truck was backing into Sunrise and parking on the corner of Sunrise and Holly Streets.

02-144

Ordinance Violations

Tina Stout asked the Board to resolve a situation with her neighbors on Julian Road. Mrs. Stout explained that 703 Julian Road has 2 vans and one car on blocks in the yard. The Clerk was instructed to ask Frank Wells to compose a letter of violation, to use for this and similar situations. Commissioner Thomas added that he could have the Suarez

Franklinville, North Carolina

Board of Commissioners Meeting

September 13, 2005

Present

Mayor: Mac Whatley

Clerk: Lou Ann Neal

Finance Officer: Carol Dezern

Commissioners: Jeff Thomas, Paul Dunn, A.C. Hurley, Randy Pugh,
(Perry Conner-via phone)

Employees: Arnold Allred, Brian Hicks, Lou Ann Neal, Carol Dezern

Visitors: Rick Granger, Nancy Granger, Priscilla Dunn, Sharon Grose

Media: Judy Brenniger

05-190 Call to Order

Mayor Whatley called the regular September meeting to order at the appointed time.

05-191 Minutes

Commissioner Hurley made a motion to adopt the minutes of the August meeting. The motion was seconded by Commissioner Thomas which passed by unanimous vote.

05-192 Financial Report

Commissioner Hurley made a motion to accept the financial report. Commissioner Pugh seconded the motion. The motion passed by unanimous vote.

05-193 Government Website Proposals

Lou Ann Neal has faxed the authorization letter for [FRANKLINVILLE-NC.GOV] Government Domain Website. She has also e-mailed the request for approval. The \$125.00 annual fee will be paid when approval is granted. (See attachment)

05-194 Retirement

Commissioner Conner presented information on the Simple Plan offered by A.G. Edwards. He recommended this plan and to implement it ASAP, with the town matching at 3% or less than that according on the decision made by the board. Discussion followed regarding the percentage to be contributed by the town. Finance Officer Carol Dezern offered an explanation of the employee submittal sheet of

Class 3 – Non-Essential Uses of Water

- Outdoor non-commercial watering (public or private)
- Non- commercial washing of motor vehicles
- Watering of playing fields
- Serving water in restaurants except by request

Section IV:

Phase I – Declaration of Voluntary Conservation

This phase is enacted whenever the governing body of the Town of Ramseur determines that one or more of the parameters outlined in Section 2 is met.

All customers shall be notified by door hangers, public posting at the Town Hall, newspaper, or radio etc. The public will be asked to begin voluntary conservation measures and Class III non-essential uses will be halted.

Continued water consumption by Class III non-essential users will result in a written notice of violation and a \$50 fine for each subsequent offense.

If the determining parameters return to normal, the measures will be lifted.

Phase II – Mandatory

This phase will begin when the Town Clerk, as advised by the Public Works Director, issues a Water Shortage Advisory. All customers will be notified again as in Phase I and will be required to adhere to the Voluntary Conservation Measures. Class II will be banned. Class II users will be allowed to water outdoor vegetation according to the residents' street address. Even number addresses are allowed to water on even days of the month. Odd number addresses on odd days of the month. During Phase II, industrial facilities and water purchasers will need to develop a plan to demonstrate reduction of water use by 20%. Failure to adhere to required conditions will result in a written notice of violation for the first offense and a \$50 fine. Thereafter the Town may impose a fine of \$100 per violation for the second offense and \$200 for the third offense. The fourth offense will result in a \$250 fine and/or water service disconnected.

If Phase II fails to alleviate the water shortage, The Town will have to enter the Final Phase.

Phase III – Emergency

This phase will commence when the Town Clerk, under advice from the Public Works Director, Mayor and Town Board of Commissioners, deems it so necessary. All water users will be notified again as in Phase I. Class III uses will be banned. Class II uses will be allowed although reduced. Industrial users will be required to implement water

reduction immediately. Residential users will be allotted based upon size of the family or 40 gallons per day per person. Any usage over this amount will have a surcharge of 150% to the monthly water bill. Industrial, commercial, institutional, and purchase systems will be required to reduce their water consumption by 25% of their previous 12 month average. Any amount used above this average will result in a surcharge of 150% of the monthly water bill.

Failure to comply with these mandates during Phase III will require the offending party to pay \$100 for the first offense, \$300 for the second offense, and disruption of water service for the third offense.

Section V: Enforcement

Any enforcement of mandatory conservation and associated fines will be the responsibility of the Town Clerk under direction of the Mayor and the Town Board.

Section VI: Water Shortage Response Plan De-Implementation

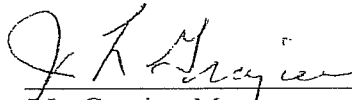
As the reservoirs levels return or parameters decrease in severity, the Town will lift the Water Shortage Response Plan.

Section VII: Effective Date

This ordinance shall be in full force and effect on the 9th day of October, 2007.


Approved this 9th day of October, 2007.

(seal)



J.L. Grazier, Mayor
Town of Franklinville

ATTEST:



Shelia Vince, Town Clerk

Franklinville, North Carolina

Board of Commissioners Meeting

March 13, 2007 @ 7:30 PM

07-63 Increased Water Deposit

Commissioner Grose told the Board Members the Budget Committee discussed the possibility of raising the \$80 water deposit for renters to \$100. This would be an effort to help with the expense the town incurs for those who move out and do not pay their current bill and leave no forwarding address. Board members discussed raising the deposit and adding a non-refundable cut-on fee for all new customers. **Commissioner Pugh made a motion to charge a \$50 deposit to homeowners and a \$100 deposit for renters and beginning the new fiscal year a \$25 non-refundable cut-on fee to all new customers. Commissioner Grose seconded the motion. Motion passed unanimously.**

Franklinville, North Carolina

Special Called Meeting of the
Board of Commissioners

August 25, 2006

Present

Mayor: Jerry Grazier

Clerk: Shelia D. Vince

Finance Officer: Carol Lawson Dezern

Commissioners: Rick Andrews, Perry Conner, Sharon Grose, A.C. Hurley and Randy Pugh

Employees: Arnold Allred, Carol Lawson Dezern and Shelia D. Vince

Visitors: Atty. Frank Wells, Larry Pearce, Jeff Thomas, Mac Whatley, David Townsend, Patty Brown (Asst. Director of Public Works)

Press: None

O6-486 Call to Order

Mayor Grazier called the meeting to order with a moment of silence for prayer or meditation.

O6-487 Discuss Proposed Water Contract

Mayor Grazier stated that the purpose of this meeting was to discuss the proposed water contract with the Town of Ramseur (which is hereby made a part of these minutes). Mayor Grazier then opened the floor to Atty. Frank Wells.

Atty. Frank Wells thanked the board and all involved for getting the meeting together. The water rate is to be determined according to the following formula: the cost of producing the water + debt service on water production facilities + rate return. Atty. Wells said that at a previous meeting with Larry Pearce, Mayor Grazier and Commissioner Pugh, the Commissioner stated if the problem is that the Town of Ramseur isn't making enough on that first 90,000 gallons and they are losing money as they say they are, that's not right. We need to look at pursuing an entirely new contract. Under the current contract the Town of Franklinville is paying \$3.56 per 1,000 gallons of water for fiscal year 2006-07. If the debt service on the new water treatment plant were included in the current rate formula, the rate would be \$4.08 per 1,000 gallons. Atty. Wells noted that, should the board fail to agree on a new contract, Franklinville can expect an increase next fiscal year to \$4.08 per 1,000 gallons – that is almost certainly going to happen, due to the inclusion of the water treatment plant

debt service into the rate calculation. It was noted that when the current water contract was signed in the early 1990's, the new water treatment facility had not been built. Ramseur has never requested inclusion of the debt service on the new water treatment plant in the rate charged to Franklinville.

Several commissioners noted that they were not opposed to a rate increase to cover the debt service on the treatment plant. They expect to pay all reasonable costs of water production, and debt service on the treatment plant is certainly one of those.

The proposal before the board at this meeting is for a flat rate for 250,000 gallons per day, or 7.5 million gallons per month at \$4.39 per 1,000 gallons. This rate provides a 15% return on Ramseur's investment. Ramseur started negotiations at 25%, Atty. Wells started at 8%.

Some concern was expressed about the 15% rate of return on investment. It was noted that the State of North Carolina assumes an 8% interest rate unless otherwise stated. It was also noted that the Federal government limits contractors to a 12% rate of return on most Federal contracts.

"This is as fair a contract as we can wind up with for the long term" said Atty. Wells. It is a forty year contract; it provides an increase in reserve capacity needed for growth, and simplifies record keeping. The old contract will govern the rate for the remainder of this fiscal year. The rate will change to \$4.39 as of the next fiscal year beginning on July 1, 2007. This contract states that there is no control or veto power by the Town of Ramseur as to what Franklinville can do with the water. There also, is no minimum number of gallons that must be purchased.

Commissioner Hurley made a motion to accept the contract. Commissioner Andrews seconded the motion. Motion passed unanimously.

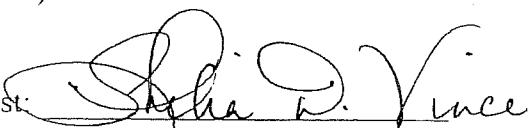
Mayor Grazier said he would like to thank TriTech Civil Engineering, and Atty. Frank Wells for all of their work and diligence towards this contract. He said he thought it was a workable contract. The mayor also said he would like to thank the board for their foresight to keep working the issue and not backing away from what needed to be done.

Commissioner Conner made a motion to authorize Mayor Grazier to sign the contract. Commissioner Grose seconded the motion. Motion passed unanimously.

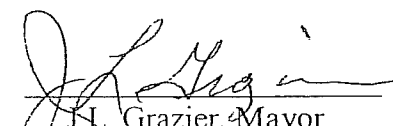
06-488 Adjourn

There being no other business to discuss, Commissioner Hurley made a motion to adjourn the meeting. Commissioner Andrews seconded the motion and the meeting was so adjourned.

(SEAL)

Attest: 
Shelia D. Vince, Town Clerk

Respectfully submitted,


J.L. Grazier, Mayor

RESOLUTION ADOPTING ORDINANCES

WHEREAS, it is in the best interest of the health, welfare and safety of the citizens and residents of the Town of Franklinville that all properties be connected to the water and sewer systems of the Town, and

WHEREAS, the board wishes to accomplish such connections in an orderly fashion and without causing undue hardship to property owners,

NOW THEREFORE the commissioners of the Town of Franklinville do hereby adopt the following ordinances:

Section ____ : Connection to Water and Sewer Services Required. All owners of improved property, whether owners in fee or as life tenants, abutting on a street where a water main or sewer line is laid, or which otherwise have access to the water main or to sewer service, shall make connection from the main or sewer line under such rules and regulations as to the manner and character of a connection as prescribed by the Board of Commissioners. Provided, that any improved property not part of the system as of the date of the adoption of this ordinance shall be suffered a non-conforming use until the next voluntary conveyance of the real property, at which time the grantee shall be required to make connection to the system or systems within 180 days. In the event the property is unimproved at the time of the adoption of this ordinance, connections shall be made within 180 days after completion of improvements. Thereafter, the Town may take action to compel connection as set out elsewhere in these ordinances.

For the purposes of this section, voluntary conveyance means a conveyance of the real property, in part or in whole, in fee or in some lesser estate, except conveyance to create or destroy a tenancy by the entireties or to divide property upon divorce or partition pursuant to a special proceeding.

Section ____ : Alternative to Connection; Availability Charge. As an alternative to the required connection to the water and/or sewer systems, an owner of improved real property within the corporate limits of the Town of Franklinville may, at his option, choose to make periodic payments of an availability charge. Such availability charge shall be equal to the minimum periodic charge under the Town's standard rate structure. In the event an owner chooses payment of an availability charge, said charge shall be retroactive to the date of conveyance or substantial completion of improvements on the real property.

Section ____ : Procedure for Compelling Connections. Whenever any property within the corporate limits shall be required by ordinance to be connected with the Town's water or sewer system, the procedure for compelling the connection shall be as follows:

Town shall notify the owner of such property by delivering to him written notice requiring such connection on a date determined by the Town but not less than fifteen days from the date of the notice. If, after reasonable diligence, the owner cannot be found within the Town, then such notice shall be published for two consecutive weeks in a newspaper of general circulation within the county and a copy of the notice shall be posted on the property.

Town of Franklinville
Water Shortage Response Plan

Water covers 3/4 of the world, but only 3% is fresh water and of this, 4/5 is stored in icecaps and glaciers. We as water users need to protect it and use it wisely. Water makes up 2/3 of our bodies and without water life would not exist.

Voluntary Water Conservation Tips

Indoor Residential Use

- Don't run water while brushing your teeth.
- Wash only full loads of laundry.
- Run dishwasher only when full.
- Almost 40% of water used goes down the toilet; install low flush toilets or install toilet tank displacements.
- Do not use the toilet to flush tissues or cigarettes; it is not a trash can.
- Install flow restricting shower heads or other water saving devices.
- Insulate hot water pipes.
- Repair all leaks in toilets and sinks by replacing washers and internal parts of the toilet.
- Learn to take shorter showers and baths.
- Do not run tap water for a cold glass of water; keep drinking water in refrigerator.
- Learn to read your water meter so you can judge your usage.

Outdoor Residential Use

- Water your lawn only when it needs it. A good way to tell if your grass needs watering is to step on the grass and if it springs back up when you move your foot, it doesn't need watering.
- Water during cool parts of the day.
- Plant drought-resistant trees and plants.
- Place mulch around trees and plants.
- Don't run your hose when washing your vehicle.
- Water slowly to prevent runoff. Don't set sprinkler so that it runs off onto paved areas.
- Avoid watering yards on windy days to prevent evaporation.
- Do not allow children to play wastefully with sprinklers or garden hose.
- Do not run sprinkler systems on a rainy day.
- Check outside faucets and hoses for leaks.
- Use a broom or leaf blower to clean off sidewalks and driveways, not the garden hose.
- Learn to read your water meter; check it often.
- Adjust your lawn mower heights to a higher setting. The higher grass helps to shade one another, helping to fight off heat and moisture loss.
- If you have an outdoor pool, get a cover for it to prevent evaporation.

Industrial, Commercial, and Institutional Use

- Do not run automatic sprinkler systems when not necessary.
- Install low flush toilets and flow restriction on toilets.
- Do not flush cigarettes or tissues down the toilet.
- Assure that the automatic valves are working properly.
- Check your property frequently to see signs of water leakage.
- Check all outside faucets, hoses, and valves for leakage.
- Repair all leaks on water- using equipment, such as water cooling towers, steam using machines, water heaters, and processing machines.
- Learn to read your water meter to determine excessive water usage.
- Educate your employees, students, patients, etc. on water conservation.
- Adjust and implement all water saving devices.

Water Shortage Response Plan Ordinance

Section I: Authority to Implement

When conditions dictate, the Town of Franklinville's Public Works Director, under the director of the Town's Mayor and Board of Commissioners, may implement a water shortage response plan. Conditions, which may require the plan to be enacted, are outlined in Section II.

Section II: Factors Leading to the Implementation of The Water Shortage Response Plan

Several factors may require the town to begin the Response Plan: such as contaminates in the water system, water main breaks, high service pumps failure, and low reservoir levels.

Phase I – enacted when any of the above are deemed serious and the lake level is down 5 feet.

Phase II – enacted when any of the above are deemed serious and the lake level is down 7 feet.

Phase III – enacted when any of the above are deemed serious and the lake level is down 9 feet.

Section III: Water Use Classifications

In order to create a fair and equitable Response Plan, every water consumer will be grouped into one of three classifications.

Class 1 – Essential Water Users

These uses are necessary to sustain human and animal life and to maintain minimum standards for hygiene and sanitation.

- Health Care Facilities
- Fire Fighting
- Any other use approved by the Mayor and Board of commissioners

Class 2 – Socially or Economically Important Uses of Water

All domestic uses other than those included in Classes 1 and 2.

- Home water use including kitchen, bathroom, and laundry
- Minimum watering of vegetable gardens
- Watering of trees to sustain their life
- Outdoor commercial watering using conservation measures
- Commercial Laundromats
- Commercial car & truck washes
- Restaurants
- Schools and churches
- Air conditioning for industrial buildings

WATER & SEWER BILLING NOTIFICATION

- Δ ALL BILLS WILL BE SENT ON THE LAST DAY OF THE MONTH.
- Δ ALL BILLS ARE DUE ON THE 15TH DAY OF THE MONTH
- Δ PENALTIES WILL BE ADDED ON THE 16TH
- Δ WHEN PENALTIES ARE ADDED TO BILL, YOU MUST PAY THE FULL AMOUNT (BILL PLUS THE 20% PENALTY) IF PENALTY IS NOT PAID WATER CAN BE DISCONNECTED
- Δ TO AVOID CUT-OFF BILL MUST BE PAID BY 5 O'CLOCK ON THE 24TH OF EACH MONTH
- Δ WATER CAN BE TURNED OFF AS EARLY AS 9 O'CLOCK ON THE 25TH
- Δ THERE WILL BE NO SECOND NOTICE, OR CUT-OFF NOTICE SENT TO YOU
- Δ NO EXTENSIONS WILL BE GIVEN
- Δ FAILURE TO RECEIVE BILL IN MAIL DOES NOT EXCUSE RESPONSIBILITY FOR ON-TIME PAYMENT
- Δ A DROP BOX IS AVAILABLE
- Δ PLEASE BRING BILL WHEN PAYING IN PERSON OR SEND STUB WHEN MAILING
- Δ YOU MAY CALL 824-2604 FOR YOUR BALANCE

*advised
July 9, 2002*

current rate based upon the average amount of water consumed monthly.

Section 12-10 Prohibited Activities.

No unauthorized person may:

- (1) Supply or sell water from the town system to other persons or carry away water from any hydrant, water fountain, or other such outlet without specific authorization from the town;
- (2) Manipulate, tamper with, or harm in any manner whatsoever any waterline, main, or appertenance or any other part of the public water system;
- (3) Tamper with the water meter so as to alter the true reading for the amount of water consumed;
- (4) Attach or cause to be attached any connection to the waterline before the water meter.

Sections 12-11 through 12-15 Reserved.

Article II

TOWN AND CUSTOMER RESPONSIBILITIES

Section 12-16 Town's Responsibility and Liability.

The town shall:

- (1) Maintain the water lines only to the property line of the customer;
- (2) Reserve the right to refuse service if there is a cross connection to a private water supply, or no backflow protection.
- (3) Assume liability for damage only if such damage results directly from the town's negligence;
- (4) Assume no liability for damage done by or resulting from any defects in the piping, fixtures, or appliances on the customer's premises;
- (5) Assume no liability for the negligence of third persons.

Section 12-17 Customer's Responsibilities.

The customer shall:

- (1) Maintain the piping system on his property at his expense in a safe and efficient manner. The town shall not undertake to repair the customer's connections to the water line until it has been determined that the disrepair, stoppage, or other cause or impediment to the proper functioning of such line exists within the portion of the lateral between the main line and the property line. If the property owner, or his representative claims that the cause of such disturbance or stoppage exists on that portion of the lateral lying between the main line and the property line and an investigation discloses that the cause of said disturbance actually exists in that portion of the line lying between the property line and the structure which is served by such line, the property owner shall pay to the town the actual cost of making such investigation. If, however, upon investigation it is found that the cause of such disturbance or disrepair is in that portion of the line lying between the property line and the main line, the town shall make such repair without additional cost to the property owner;
- (2) Guarantee protection for town facilities or equipment;
- (3) Pay the cost of relocating town owned facilities and equipment if done at his request;
- (4) Not make or cause to be made any cross-connection with a private water supply;
- (5) Install proper and adequate backflow prevention devices;
- (6) Install a pressure reducing device if deemed necessary by town officials;
- (7) Be responsible for loss to the town or other persons or property due to his negligence. Damage to the town will be added to customer charges.

Section 12-18 through 12-20 Reserved.

Article III

NON-PAYMENT OF BILL: PROCEDURE

Section 12-21 Termination of Service.

If a customer permits his bill to become more than 20 days delinquent [see Section 12-6(g)(1)], service may be terminated in accordance with the regulations contained herein.

In the event that the property is in the charge of an agent of the owner, and such agent can with reasonable diligence be found, a copy of such notice shall also be served upon him. Publication of such notice in a newspaper together with posting a copy at the property shall, in any case, be deemed sufficient. If the property owner does not, within the time prescribed by the notice, make the connection in accordance with the rules and regulations prescribed therefore by the Board of Commissioners, then the Town, through its officers or agents, may make the connection in accordance with such rules and regulations and the cost thereof shall be charged against the owner ~~and shall be charged against the owner~~ and shall constitute a lien upon the land and the collection thereof shall be made in the manner provided by law for the collection of unpaid taxes and satisfaction of tax liens.

This 2nd day of March 1998.

Adopted by the Board of Commissioners this the 2nd day of March 1998.

Moved by Commissioner: [Signature]

Seconded by Commissioner: [Signature]

Final Vote: [Signature]

[Signature]
Town Clerk

(f) A charge for service reinstatement shall be made pursuant to Section 12-4.

Section 12-27 Termination for Change of Occupancy.

(a) Not less than one days notice shall be given in person or in writing at Town Hall to discontinue service for a change in occupancy.

(b) The outgoing party shall be responsible for all water consumed and for pro-rated service up to the time of departure or the time specified for departure, whichever period is longer.

(c) When all charges for service are paid in full the outgoing party's deposit shall be refunded. The deposit will be refunded pursuant to Section 12-3.

Section 12-28 Termination by the Town Without Notice.

(a) The town reserves the right to discontinue its service without notice for the following reasons:

- (1) Prevention of fraud or abuse;
- (2) Consumer's willful disregard for service regulations;
- (3) Emergency repairs;
- (4) Insufficient supply beyond the town's control;
- (5) Strike, riot, flood, accident, act of God, or any other unavoidable cause.

(b) The town shall make a good faith effort to notify affected customers before service is terminated. However, the customer, by making application for service, agrees to hold the town harmless from liability for any damages which may occur due to termination for the above mentioned causes.

Sections 12-29 through 12-35 Reserved.

Article IV

CONNECTION TO THE PUBLIC WATER SYSTEM
WHERE SERVICE IS AVAILABLE

Amended
Section 12-36 Connection Not Required

No person shall be required to connect to the Town Water System.

Section 12-37, Permit for Connection Required.

No person shall connect or be connected with the water system of the town until they have received a permit for such a connection pur-

Section 12-22 Petition for Hearing.

Before service is terminated for non-payment the customer is entitled to petition for a hearing if he believes his bill to be in error. The customer or (petitioner) may appear before the town board at its regular scheduled meeting.

Section 12-23 Service Sustained in Interim.

While awaiting action of this board the customer will be served with water.

Section 12-24 Decision Final.

The decision of the Board shall be final for administrative purposes. If it is found that an amount is owed to the town by the customer, that amount shall be paid to the town within ten (10) days of the decision. If the bill remains unpaid after the meeting of the board, the town may terminate the service of the customer without further notice.

Section 12-25 Lessee Can Take Responsibility for Payments.

Where a lessee occupies a building, structure, or dwelling for which the lessor is responsible for the water service payments and the lessor is delinquent in his payments, notice shall be sent to the lessee within a reasonable time before service is terminated, giving the lessee the option of taking responsibility for water and sewer service payments. The lessee shall not be liable to the town for the indebtedness of the lessor.

Section 12-26 Termination of Service - Procedure.

(a) Water service termination shall be effected only by authorized agents of the public water system.

(b) As provided in G.S. 160A-314, when service is discontinued for delinquency, it shall be unlawful for any person other than a duly authorized agent or employee of the town to do any act that results in the resumption of service.

(c) When service is terminated for non-payment of bills, the service application deposit shall be applied to the outstanding bill.

(d) If after applying the deposit to the outstanding bill there are deposit funds remaining, the excess will be refunded to the customer. If a portion of the bill remains outstanding the customer shall pay the remaining portion to the town before service will be reinstated and the town may proceed to collect the balance in the usual way provided by law for the collection of debts.

(e) Before service will be reinstated the customer shall redeposit with the utility an amount equal to his application deposit or the delinquent bill, whichever is greater.

suant to Section 12-38 and have made an application for service pursuant to Section 12-1.

Section 12-38 Application for Connection Permit.

(a) Every application for water connection shall state the name of the owner of the lot, the name of the street on which the lot is situated, the number of the building of there is one on the lot, or if not, a description of the location of the lot, the number and kind of the connections desired, the character of the surface of the abutting street and any other additional information necessarily required. Every application shall be signed by the person making the application.

(b) Every application for connection shall be accompanied by the fees pursuant to Section 12-4 and the deposit pursuant to Section 12-3.

(c) No permit shall be issued for water connections until after the water supervisor has made an on-the-premises inspection of the real property identified on the application and has determined the type of connection required.

(d) After the examination the water supervisor shall file a written report of his findings with the town clerk. In the event that a different type connection is required other than that applied for, any additional fees must be paid by the applicant before a permit may be issued.

Section 12-39 Permit Application Rejection.

Upon application for a connection permit the town may reject the application and decline to provide service for the following reasons:

- (1) Service is not available under the standard rate.
- (2) The cost of service is excessive.
- (3) The provision of service to the application will adversely affect the supply of water to other customers or will adversely affect the town's sewage treatment capabilities.
- (4) Other good and sufficient reasons.

Section 12-40 Construction of Connections.

(a) When a permit has been issued by the town for a water connection to existing lines, the town, either with the use of town forces or by contract shall do the excavating, lay the pipe, install a meter, make the connection (tap-on) to the main, fill the excavation, and replace the surface of the street.

(b) The customer can request that the water meter be placed on his premises, however, the final decision for meter placement lies with the town.

(c) Where the meter is placed on the premises of the customer:

- (1) The town shall provide a cut-off cable directly before the property line.
- (2) The customer shall furnish and maintain a private cut-off cable on his side of the meter.
- (3) The customer shall provide a suitable location for placing the meter, unobstructed and accessible at all times to the meter reader.

(d) The customer's piping and apparatus shall be installed by a licensed plumber in accordance with all applicable building and plumbing codes, at the customer's expense in accordance with the town's regulations and in full compliance with the sanitary regulations of the State and the Randolph County Health Department.

(e) Piping on the customer's premises shall be so arranged that the connections are conveniently located with respect to the town's mains.

Section 12-41 Separate Connections Required For Each Lot.

(a) For the purposes of this chapter, "lot" shall mean a parcel of land whose boundaries have been established by some legal instrument such as a recorded deed, deed of trust or a recorded map, and which is recognized as a separate legal entity for purposes of transfer of title.

(b) There shall be for every lot to which water service is available a separate tap and connection with the water main of the town and a separate service pipe, tap and meter.

Section 12 42 Requirements for Connection of Service Where Multiple Buildings or Structures are Situated on One Lot.

Where there are multiple buildings or structures situated on one lot and where the lot owner desires to have a common water connection including a private water distribution system, he must meet the following requirements:

- (1) The building or buildings to be served shall be in compliance with all applicable zoning ordinances of the jurisdiction.
- (2) The building permit and plat shall show a single owner and shall indicate the complex of buildings to be constructed on a single lot.
- (3) The applicant shall be required to submit to the Town a site plan showing the proposed water construction. Such plans shall be prepared by a registered professional engineer who shall also provide full time inspection of the work. Such plans shall include:

- (a) Size of water lines, materials to be used for construction, valve locations and hydrant locations. All construction from the property line to the water meter shall be in accordance with town standards and specifications. Construction beyond the water meter may be with materials permitted in the plumbing code. All construction shall be performed by either a licensed master plumber or a licensed utility contractor.
- (4) Should a building within such a multiple constructed area be conveyed to a new owner the town shall require a separate water connection from that building to the mains in the street, except in the case of condominium or townhouse developments.

Section 12-43 Town Inspection.

By making application for service the customer agrees that the town possesses the right to inspect the private water distribution systems and, water connections before they are connected to the town water system. The town shall be given notice to inspect before the pipes are covered and the system is connected.

Section 12-44 Laterals to Remain Town Property.

All meters, meter boxes, pipes and other equipment furnished and used by the town or its contractors in installing any water connection shall be and remain the property of the town.

Section 12-45 to 12-50 Reserved.

Article V

WATER EXTENSIONS INSIDE THE TOWN LIMITS

Section 12-51 General Policy

When water service shall be desired or proposed within the town limits by any property owners or desired or proposed by the town for any property situated where in the street adjacent to the property no water mains have been laid, the town, subject to the provisions of this chapter, may construct and extend or cause to be constructed or extended its water mains, including such accessory construction as may be required, from the nearest portion of its mains to a point as it necessary to provide the requested or proposed service.

Section 12-52 Caveat.

The extension of water mains is subject to the availability of funds appropriated by the town board for that purpose, subject to the determination of Supervisor of Water based upon the criteria in Section 12-39.

NORTH CAROLINA

TOWN OF FRANKLINVILLE

RANDOLPH COUNTY

**AN ORDINANCE SETTING FORTH CONDITIONS FOR PROVISION OF
MUNICIPAL UTILITY SERVICES TO EXTRATERRITORIAL PROPERTY.**

WHEREAS the water distribution and wastewater collection and treatment facilities of the Town of Franklinville represent the largest investment of public funds by the taxpayers of the Town of Franklinville; and

WHEREAS the provision of such services to the taxpayers and property owners of the Town at the lowest possible cost to the users is in the best interests of all citizens; and

WHEREAS provision of utility services to areas outside the municipal limits which are proposed for commercial, industrial or residential development lowers the cost of providing such services to all customers; and

WHEREAS the inclusion of developed areas within the municipal boundaries of the Town promotes the orderly regulation of such development, broadens the municipal tax base, and shares the financial burden of building and maintaining utility infrastructure among all the users thereof;

THEN THEREFORE, be it hereby resolved and ordained by the Commissioners of the Town of Franklinville, North Carolina, that the Franklinville Town Code be amended to set forth the following conditions for providing municipal utility services to extraterritorial property:

(1) Annexation Petition. Connections to or extension of utility lines outside the municipal limits of the Town may be made only after the Town has received a petition requesting annexation of the property to be served. Once received, the Town reserves the right to accept, defer or reject the petition, depending on the needs of and benefits to the Town.

(2) Extension of Services. Any developer of land shall be responsible for providing water and sewer line connections, together with all necessary pump stations, lift stations and fire hydrants between the property to be developed and the Town's utility systems. Extensions shall be located on public rights-of-way where practicable; any easements or rights-of-way across private property shall be obtained by the developer at his expense and deeded or dedicated to the Town. The Town shall require the extension of water and sewer service jointly when an applicant requests the extension of either one, except in such cases where the Board of Commissioners shall find it economically impractical to install both. In such cases, the Town shall require the dedication of easements for water and/or sewer lines so that either may be installed at a later date.

(3) Improvements in Accordance with Standards. All connections, additions, extensions, modifications or improvements to the utility systems of the Town shall be made in conformity with the standards and specifications approved by the Director of Public Works and the Town Engineer. Said requirements may be published by the Town in a "Manual of Utility Specifications" available to the public.


(4) Participation by the Town. The Town may participate in the cost of extending utility lines only to the extent of benefit by the Town as a whole. The Town may share in the additional costs incurred by developers of extending (a) a water line in excess of six (6) inches in diameter; (b) a sewer main in excess of eight (8) inches in diameter; or (c) the cost of increasing the capacity of a proposed pump station to meet the anticipated needs of the service area. All such cost participation by the Town shall be approved in advance by the Commissioners and reflected in an appropriate contract executed prior to construction.

(5) Connection Charges. Any extraterritorial property owner or developer seeking to connect to the Town's utility systems shall be required to pay a frontage or acreage fee amounting to the pro-rated costs of engineering, materials, equipment, construction labor and supervision which shall be necessary to complete the project, based on current market prices, wages and rates for materials and services. The property shall also be subject to the usual tap-on fees established by the Town, unless waived.

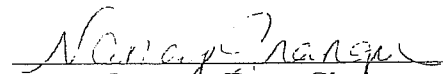
(6) Recoupment of Developer Costs. It shall be the policy of the Town to attempt to recoup a portion of the costs of extending utility service to a private Developer's property if other adjacent property owners make use of such extensions within five (5) years of construction. The Town shall collect from any such adjacent property owner a special privilege charge for the use of that part of the system according to the front footage and/or acreage of such property, and remit seventy-five per cent (75%) of said charge to the original Developer. After the initial five-year period, even though the Town may charge benefitted properties a connection fee for use of a line built by a Developer, no remission shall be made to the Developer.

(7) Acceptance of Construction. The Developer shall guarantee that all materials and equipment furnished and work performed in extending utility lines and services shall be free from all defects for a period of one year from the date of completion. At the time of connection of such facilities to the municipal system, the Town may undertake to bill for services and conduct regular maintenance. At the end of the one-year warranty period the Town shall accept the utility lines into the Town system if no defects have been discovered or remain uncorrected. After the date of acceptance, all such utility lines and installations shall become the sole property and responsibility of the Town.

At at regular meeting of the Board of Commissioners of the Town of Franklinville held on the 2nd day of December, 1996, , the foregoing ordinance was proposed by Commissioner D. J. C., seconded by Commissioner H. C. C., and adopted by a unanimous vote.


L. McKay Whatley, Mayor

(SEAL)


Nancy Granger, Town Clerk

Section 12-53 Inapplicability to Undeveloped Subdivisions, Industrial or Commercial Developments.

This article (Article V) is inapplicable to the construction of water mains within subdivisions and industrial or commercial developments as defined in Section 12-61 which are in the process of being developed. Construction of water facilities within subdivisions and industrial and commercial developments is covered in Article VI.

Section 14-54 Water Mains in Dedicated Streets Only.

Before any water main extension will be made to serve properties inside the corporate limits of the town, the street in question shall be opened, graded, and officially accepted as a part of the town street system, unless otherwise specifically provided by the Board. Water will not be turned on for use until all street opening requirements have been complied with.

Section 12-55 Method of Contracting.

Water main extensions, to serve properties within the corporate limits of the town, in which the town participates in the cost, shall be done by town forces or under a contract let by the town.

Section 12-56 Specifications.

All installations shall be made according to specifications of the town including the size of all lines, their locations, grade, and materials used.

Section 12-57 Town Financing.

The town may finance the cost of water extensions by special assessment. This method of financing is illustrative and not inclusive.

Sections 12-58 through 12-60 Reserved.

Article VI

WATER EXTENSIONS OUTSIDE THE TOWN LIMITS
INCLUDING ALL UNDEVELOPED SUBDIVISIONS OR
INDUSTRIAL OR COMMERCIAL DEVELOPMENTS

Section 12-61 Definitions.

For the purposes of this article (a(n)

- (1) Subdivision shall mean a development of two or more single family or duplex residences where one or more lots front on a street that has been offered for dedication and is not then maintained by the town.
- (2) Industrial or commercial development shall mean a development of two or more separate and unattached structures

intended to contain industrial or commercial business operations where one or more lots front on a street that has been offered for dedication and is not then maintained by the town.

Section 12-62 Approval by Town.

(a) When water connections shall be desired for any property situated outside the corporate limits of the town upon a street, road, or alley where no water pipe has been installed; or within any yet undeveloped subdivision, industrial or commercial development inside or outside the corporate limits, water service may be provided with the approval of the town based in part on the guidelines of Section 12-39.

(b) Notwithstanding (a) above, the town reserves the exclusive right to approve or disapprove any request for extension of water service to insure that the system develops in accordance with projected need and available supply.

Section 12-63 Regulations for Extensions.

Extensions to the water system shall be constructed in the following manner:

- (1) The owner of property outside the town limits or developers of subdivisions, industrial or commercial property desiring a water extension within their property may make application to the town for permission to lay pipelines from the town's water mains to the owner's property. Application shall be made pursuant to Section 12-38.
- (2) The owner to whom permission is granted shall bear all the expenses of laying the pipes and connecting same with the water system of the town.
- (3) All installation shall meet minimum specifications set by the town. The specifications shall include the size of all lines, their location, grade, materials used, manner of installation, and such other specifications deemed necessary by the water supervisor. Construction will not commence until approval has been given by the town board to specifications shown on a detailed map prepared by the applicant and submitted at the time of application for extension of service.
- (4) The standard minimum size for new extensions is two (2) inches in diameter. Smaller lines (such as in short loops) will be permitted only with the express approval of town board when such lines are not restrictive to necessary free flows or offer impairment to flow of the distribution grid.
- (5) Any addition to the system must extend through or by the applicant's property and have adequate provisions for

laterals or extensions as required for the future development of the system.

- (6) The work shall be subject to inspection by the town. If in the judgment of the town board there is a demonstrated lack of competent supervision by a contractor the town board may at its option:
 - (i) halt work until approved supervision is obtained and the work done in accordance with approved specifications, or
 - (ii) provide constant inspection by town personnel at the expense of the applicant.
- (7) Inspection of a project does not consist of or imply supervision and the applicant is solely responsible for the design and construction of the project and may be required, with notice, to rearrange or do over any work to bring it into conformity with the town's specifications.
- (8) Before any water main extension outside the corporate limits will be permitted to connect to the town system, the street in which the main is laid shall be opened, graded, and officially accepted as a part of the state street system, unless otherwise specifically provided by the Board. This requirement shall also pertain to the internal water main extensions in subdivisions and industrial or commercial development being constructed inside the corporate limits, except that the streets in which the main are laid shall be accepted as a part of the town street system.
- (9) The property owner shall save harmless the town from all loss, cost, damage, liability or expense of any injury to any person or property as a result of laying the extension.
- (10) All water mains constructed and connected with the facilities of the town pursuant to this article shall be conveyed to and become the property of the town upon completion and acceptance by the town. Connection to the system and acceptance by the town shall constitute dedication of a water main extension by the applicant.
- (11) The final connection of the extension to the town system shall be made by the town. Before connection is made the availability charge and the meter fee if a meter is installed shall be paid to the town, pursuant to Section 12-5. Except that for subdivisions, the availability charge may be deferred by the developer and paid by the first subsequent owners of the dwellings prior to service initiation and for industrial or commercial developments.

the develop may defer the availability charge and pay the current rate prior to service initiation to the properties to be served.

- (12) The town shall have exclusive control of all such lines and shall be responsible for their maintenance, repair, and operation. However, the conveyor of additions to the system shall guarantee the entire project against defective material and workmanship for a period of twelve (12) months from the date of completion and acceptance of the project, including such incidental damages as may arise from such claims.

Section 12-64 Reimbursement.

Reimbursement may be made to a developer or other applicant for expenses incurred in providing facilities which are subsequently utilized by the town to serve other customers. No allowance will be made for any lines which are not designed to serve lands outside the applicant's project.

Sections 12-65 through 12-70. Reserved.

Article VII

FIRE PROTECTION SERVICE

Section 12-71 General Provisions.

(a) Fire protection connections shall be made pursuant to the recommended standards of the National Fire Protection Association and state and local authorities.

(b) The connection of fire protection lines to the town system shall be in accordance with the standards established by the town for connection and extension of service pursuant to Articles IV, V and VI of this chapter.

(c) The town reserves the exclusive right to approve any request for connections of free service lines to the system pursuant to Section 12-62(b) and to ensure that the system develops in a manner to provide protection from contamination and water loss.

(d) The town reserves the right to set standards for design, materials, and construction of fire service lines and the components used therein.

(e) A rental charge will be made for fire protection service connections and for fire hydrants not set in the public right-of-way within the town limits.

Section 12-72 Plans.

The developer, owner, or customer shall submit plans for fire protection service to the town for approval before work is begun. Location of hydrants and siamese connections shall be reviewed by the fire department serving the town.

Section 12-73 Materials.

All hydrants, valves, pipe and other materials shall be to specifications of the town. Approval of specific items is to be secured prior to installation. Hydrants must also conform to standards of the local fire department. Meters shall be of a type, quality of construction, and degree of accuracy as specified by the town.

Section 12-74 Construction.

(a) Fire hydrants to be installed on the public right-of-way outside the town limits or on private property including subdivisions inside or outside the town limits may be installed by the town either through the use of town forces or by contract. The party desiring the hydrant will be required to deposit in advance the estimated cost of materials, equipment, installation and overhead. After installation any excess deposit shall be refunded. Any deposit deficiency shall be paid to the town by the party requesting the hydrant before service is initiated.

(b) Upon approval of the Board fire hydrants may be installed by a licensed master plumber or licensed utility contractor. When an active water main abutting the property or adjacent to the right-of-way is in existence, lateral installations shall be performed by the town with standard fees, pursuant to Section 12-4, to be paid in advance. Deficiencies and excesses will be handled pursuant to Subsection (a) above. Final tap-on connections shall not be made until the entire installation has been inspected and approved by the Board or its designated appointee.

(c) Private fire protection systems, i.e., standpipes, sprinkler systems, and private reservoir systems shall be constructed and installed by a licensed master plumber or licensed utility contractor. When an active water main abutting the property or adjacent to the right-of-way is in existence, lateral and tap on installations shall be performed by the town with standard fees pursuant to 12-4 applying. The lateral fee shall be paid in advance. Deficits and excesses will be handled pursuant to Subsection (a) above. Final tap on connections shall not be made until the entire installation has been inspected and approved by the Board or its designated appointee.

(d) Backflow prevention conforming to town requirements shall be installed at such points as necessary to assure protection of the water supply.

Section 12-75 Ownership and Maintenance.

(a) Hydrants when installed in an approved manner will be accepted as a part of the town water system.

(b) Accepted hydrants will be maintained by the town. However, for hydrants not in dedicated public right-of-way or outside the town limits, the property owner will be responsible for any patching, paving, landscaping and other such work associated with the maintenance and repair of the hydrant installation.

(c) The town will not assume ownership or responsibility for any standpipe, sprinkler, or private reservoir system.

(d) The town will maintain fire protection lines in public streets up to and including the service valve at the property line. In addition, metering and detecting systems will be maintained within the limits of the isolation valves.

(e) Metering equipment and detector systems will be installed at the customer's expense in accordance with the specifications of the town. The ownership of the equipment will transfer to the town upon approval and acceptance of the installation.

Section 12-76 Metering.

(a) On any fire line entering a structure or laid in a remote or inaccessible location, the owner shall provide at his expense either a detection check valve with bypass meter or a full flow fire line meter.

(b) When a detector check meter indicates usage of water for other than fire protection, the owner shall be required at his expense to furnish and install a full flow meter of approved design.

(c) The full flow meter shall be arranged to meter all water supplied to the premises whether for domestic, process, or fire protection purposes.

(d) Should the town have reason to believe that unmetered water is being lost or used for other than fire protection purposes from any unmetered fire line, then the town may install a detector check meter. Should the detector check meter indicate such usage or loss, then the owner shall be required at his expense to furnish and install a full flow fire line meter.

Section 12-77 Inspection.

The town shall have the right to inspect fire protection facilities pursuant to Section 12-6(a).

Sections 12-78 through 12-120 Reserved.

Article XIII

PENALTIES AND REMEDIES

Section 12-121 Lack of Permit or Authorization.

Should any person fail to obtain a permit or authorization from the approving authority as required in this ordinance the approving authority shall, upon twenty-four (24) hours notice, if such person is using town water, disconnect such connection with the town water system. Such disconnection so disconnected will be reconnected only at the expense of such person.

Section 12-122 Non-Compliance.

In the event of the failure of any person to comply with any of the provisions of this chapter, the town shall, after five (5) days notice disconnect the premises of such person from the town water.

Section 12-123 Misdemeanors.

A violation of any of the following sections shall constitute a misdemeanor, punishable as provided in G.S. 14-4: Sections 14-10, 14-99, 14-109 and 14-110.

Section 12-124 Civil Penalties.

A violation of any of the sections listed in the subsections below shall subject the offender to a civil penalty of the amount corresponding to the section violated. If a person fails to pay this penalty within ten (10) days after being cited for a violation, the town may seek to recover the penalty by filing a civil action in the nature of a debt. The civil penalties are as follows:

(1) A penalty of \$75.00: Sections 12-10(c) and 12-10(d).

(2) A penalty of \$50.00: Sections 12-36, 12-10(a), 12-10(b).

Section 12-25 Enforcement.

The town may seek to enforce this chapter through only appropriate equitable action, including injunctions or orders of abatement.

Section 12-26 Separate Offenses.

Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

Town of Franklinville Water Conservation Policy

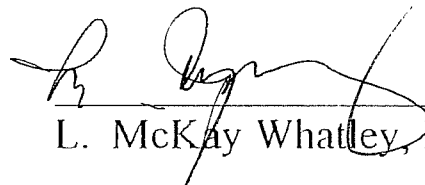
WHEREAS; the Mayor and Board of Commissioners of the Town of Franklinville recognize the importance of water as an asset and the need to educate the public about water conservation; and,

WHEREAS, the Town shall initiate and support a water conservation plan; and,

WHEREAS; the Town shall make water customers aware of the water conservation program and seek their participation through an active public education program;


NOW, THEREFORE, BE IT RESOLVED by the Mayor and Board of Commissioners of the Town of Franklinville that the Town adopt a Water Conservation Policy, requesting every water customer of the Town of Franklinville to participate in this important program.

Approved this the 24th day of December, 2006.



L. McKay Whatley, Mayor

ATTEST:



Nancy Granger, Town Clerk

Town of Franklinville Measure Your Shower Checklist

Hot water is expensive! If your showerhead is wasting water, understand that it is also wasting money. The instructions below will help you measure your showerhead's flow rate.

DON'T TRUST YOUR SHOWERHEAD

To measure your showerhead flow rate, you'll need the following items:

- A bucket or large pot
- A measuring cup
- A helper with a stopwatch
- A calculator

Follow these steps:

1. Turn your shower on and place a bucket into the spray for five seconds
2. Determine the number of ounces that are in the bucket
3. Multiply the number by 12 to determine the number of ounces per minute
4. Divide by 128 to determine the number of gallons per minute

Example; 64 ounces in bucket (5 seconds worth)

$64 \times 12 = 768$ ounces per minute

$768 \text{ divided by } 128 = 6$ gallons per minute

If your flow rate is.....

5 to 7 gal. per min. / Extreme waste of water and energy! Very Costly! New showerhead strongly recommended!

3 to 5 gal. per min. / Very wasteful. Exceeds maximum federal standard. New showerhead strongly recommended.

2 to 3 gal. per min. / Proper flow rate. Complies with building code.

An average family of four that replaces a 6 gpm showerhead will save approximately 32,000 gallons of water annually. At the current rate that would mean a savings of \$ 128.00 in water costs alone. The savings would also be reflected on the utility used to heat your hot water.

Town of Franklinville Leaky Toilet Checklist

Check your toilets at home. About 25% of all toilets leak!

A leaking or "running" toilet wastes 50 to 100 gallons of water per day! Here's a golden opportunity to save hundreds of gallons of water right in your own home. Complete the 3 tests listed below.

1. Perform the EAR TEST (listen).
Does your toilet ever make noises when it is not in use? If yes, you just found your leak! Any noise means the toilet is continually refilling due to a worn flapper, or flush valve, located in the center of the tank.
2. Perform the EYE TEST (look).
 - Remove the tank lid and look inside the tank.
 - Locate the overflow tube in the middle of the tank, or on the tank wall.
 - If the water level is even with the top of the overflow tube, water is spilling into the overflow, and a fill valve adjustment is needed.
 - The water level should be set about $\frac{1}{2}$ inch below the overflow. Adjust the float on the fill valve to set the water level. If adjustments do not lower the water level, the fill valve probably needs replacing. You may need a plumber!
3. Perform the DYE TEST.
 - Remove the tank lid. Put some dark food coloring or dye inside the tank water and wait 20 minutes.
 - If the water in the bowl begins to color, your flapper valve is leaking. Replace the flapper or rubber stopper in the corner of the tank.

WATER SHORTAGE RESPONSE PLAN ORDINANCE

Town of Franklinville

1. Ordinance.

Water Shortage Response Plan (WSRP) Ordinance

2. Scope and Intent. The authority responsible for enacting the WSRP and Ordinance is NCGS 160A-312 and related statutes.

The measures in this Ordinance shall be enforced at the declaration of a water shortage by the Town of Ramseur or a separate declaration by the Town of Franklinville for unconnected occurrences that cause a water shortage to be experienced by the Town of Franklinville water system and customers. All municipalities, service districts, water corporations, or water authorities purchasing water from the Town of Franklinville will adopt and enforce this WSRP Ordinance as a condition of water sales agreements. Upon the declaration of a water shortage, all such entities shall enforce the appropriate water use restrictions or percent reduction goals for each phase of response to a water shortage. Generally, if the water shortage is declared by the Town of Ramseur, then each phase of response will correspond to that declared by the Town of Ramseur. If the water shortage is related to occurrences other than a water shortage declaration by the Town of Ramseur, then the Board of Commissioners shall determine the timing to implement each phase of response to the water shortage.

3. Education/Outreach Program and Notification methods for informing customers about water use policies and restrictions.

- Bill Stuffers to Customers
- Signs and Posters
- Water Audits
- School Presentations
- Flyers/Handouts

4. Identification of Water Use Classifications:

CLASS 1: ESSENTIAL WATER USES

The following water uses have been determined to be essential uses of potable water provided by the Town of Franklinville in the event of a water shortage.

- Domestic Use for Drinking, Personal Hygiene, and Sanitation
- Patient Care/Rehabilitative Services
- Uses to Sustain Human Life and the Lives of Domestic Pets
- Fire Fighting
- Fire Department Drills and Testing
- Flushing Fire Hydrants and Public Sewers as necessary to ensure Public Health and Safety

WATER SHORTAGE RESPONSE PLAN ORDINANCE

Town of Franklinville

CLASS 2: SOCIALLY/ECONOMICALLY IMPORTANT WATER USES

The following water uses have been determined to be socially or economically important uses of potable water provided by the Town of Franklinville in the event of a water shortage.

- Domestic Use for laundry, cooking, and house cleaning
- Industrial Use to maintain jobs
- Outdoor commercial watering (public or private) using conservation measures
- Irrigation for commercial vegetable gardens and fruit orchards or the maintenance of livestock
- Watering of trees where necessary for preservation
- Watering by commercial nurseries at a minimum level necessary to maintain stock
- Water use by arboretums and public gardens of National, State, or regional significance where necessary to preserve specimens
- Use of fresh water at a minimum rate necessary to establish vegetation following earth-moving, where such vegetation is required by law or regulation
- Watering of golf course greens
- Filling and operation of public swimming pools
- Commercial car and truck washes
- Commercial laundromats
- Restaurants and clubs
- Home vegetable gardens
- Convenience stores, gas stations, and other commercial establishments.
- Schools and churches
- Hotels, motels, and inns
- Air conditioning:
 - Refilling for start up at the beginning of the cooling season
 - Make-up of water during the cooling season
 - Refilling specifically approved for by health officials, where the system has been drained for health protection or repair purposes

CLASS 3: NON-ESSENTIAL WATER USES

The following water uses have been determined to be non-essential uses of potable water provided by the Town of Franklinville in the event of a water shortage.

- Fountains, reflecting pools, and artificial waterfalls
- Gardens, lawns, parks, golf courses (except greens), playing fields and other recreational areas
- Water hoses or sprinklers for recreational purposes
- Non-commercial washing of motor vehicles
- Serving water in restaurants, clubs, or eating places except by specific request
- Air conditioning except as specified in Class 2
- Watering of inedible plants except as specified in Class 2

WATER SHORTAGE RESPONSE PLAN ORDINANCE

Town of Franklinville

- Filling and operation of residential swimming pools

5. Phase Conservation Measures and Water Use Restrictions to Reduce Demand for Potable Water

VOLUNTARY PHASE: Water Use Reduction

- Review WSRP and modify as necessary
- Issue a water shortage advisory. Increase conservation educational campaign.
- 10% potable water use reduction goal (system-wide)
- Encourage continued voluntary conservation
- Monitor compliance with voluntary water use
- Explore alternatives for supplementing water supply

MANDATORY PHASE: Water Use Restrictions

- Issue a water shortage alert.
- 10-20% potable water use reduction goal (system-wide)
- Ban or restrict Class 3 uses
- Restrict Class 2 uses
- Monitor compliance with water use restrictions and increase restrictions as necessary
- Consider implementing over use fines

EMERGENCY PHASE: Water Use Restrictions, Bans, or Rationing

- Issue a water shortage emergency declaration.
- 30% potable water use reduction goal (system-wide)
- Ban all Class 3 uses
- Ban or restrict Class 2 uses
- Aggressive compliance monitoring and enforcement
- Enact advanced restriction pricing with over use fines
- Implement specific restrictions, bans, or rationing measures on industrial water customers

CONSERVATION MEASURES

- For Indoor or Outdoor Residential Use: Use dishwashers and laundry machines only when they are full; turn off faucets while brushing teeth, shaving, etc; reduce water used per flush by installing toilet tank displacement inserts (DO NOT USE BRICKS - they disintegrate when soaked and the resulting grit hinders closing of the flap valve, causing leakage); do not use the toilet as a trash can; use sink and tub outlet stoppers to avoid water waste; keep a bottle of water in the refrigerator, so as not to run the tap to get cold water; find and fix leaks in faucets and water-using appliances; adapt plumbing with flow-restricting or other water-saving

WATER SHORTAGE RESPONSE PLAN ORDINANCE

Town of Franklinville

devices; learn to read your water meter so you can judge how much water you use and see the difference conservation makes; reduce the number of toilet flushes each day; take shorter showers and shallow baths; turn off showers while soaping up; do not use garbage disposal; limit or eliminate playing with hoses or sprinklers; limit or eliminate car washing; and use disposable eating utensils or food service items.

- For Lawns and Inedible Plants: (except in emergency phase, when watering lawns and inedible plants is banned), water lawns before 10:00 a.m. and, if possible, during cloudy conditions to reduce evaporation; water only when lawn shows signs of wilt; water thoroughly (long enough to soak roots) not frequently (a light sprinkling evaporates quickly and encourages shallow root systems); water slowly to avoid runoff. General conservation measures include: not letting the sprinkler run any longer than necessary; use automatic shutoff (e.g. pistol-grip) nozzles; aerate lawns; position sprinklers to water the lawn, not the pavement; avoid watering on windy days; keep sprinkler heads clean to prevent uneven watering; adjust hose to simulate a gentle rain; know how to turn off an automatic irrigation system in case of rain; capture runoff from drain spouts or place containers under drain sprouts; use leftover household water; and use an alarm clock or stove timer to remind you to shut off sprinklers that do not have timers.
- For Vegetable Gardens: Water deeply, slowly, and weekly; keep soil loose so water can penetrate easily; keep weeds out to reduce competition for water; and put the water where you want it and avoid evaporation by using soil-soakers or slow-running hoses, not sprinklers.
- For Trees and Shrubs: (except in emergency phase, when watering trees and shrubs is banned); water deeply with a soil-soaker or drip-irrigation; water only when needed and, if possible, during cloudy conditions; water trees growing in full sun more often than those in shade; and apply water directly at the base of trees. General conservation measures include: check the depth of soil dryness; mulch to reduce evaporation; dig troughs around plants to catch and retain water; use automatic shutoff (e.g. pistol-grip) nozzles; install “trickle-type” irrigation systems; do not use sprinklers; do not fertilize during the summer; postpone planting until fall or spring; capture runoff from drain spouts or place containers under drain sprouts; and use leftover household water.
- For Industrial Use: For industrial equipment connected directly to waterlines, such as processing machines, steam-using machines, washing machines, water-cooled air conditioners, and furnaces, ensure that valves and solenoids that control water flows are shut off completely when the water-using cycle is not engaged; identify and repair leaky fixtures, pipe fittings, and valves; adjust water-using equipment to minimize the amount of water required to achieve its stated purpose; shorten rinse cycles for laundry machines as much as possible; install toilet tank

**WATER SHORTAGE RESPONSE
PLAN ORDINANCE**

Town of Franklinville

displacement inserts; place flow restrictors in showerheads and faucets; close down automatic flushes overnight; install automatic flushing valves; check meters frequently to determine consumptive patterns; recycle or re-use water wherever possible; post water conservation posters and literature in areas frequented by employees; and review usage patterns to determine where other savings can be made.

6. Enforcement

- | | |
|---|------------|
| <input type="checkbox"/> FIRST OFFENSE: | \$50 fine |
| <input type="checkbox"/> SECOND OFFENSE: | \$100 fine |
| <input type="checkbox"/> THIRD AND SUCCEEDING OFFENSES: | \$250 fine |

7. Phased Water Shortage Response Measures vs. Year Round Water Use Policy

- The Town of Franklinville will encourage year-round efficient use of water for all customers.
- The Town of Franklinville will carefully monitor demand and supply and determine average daily demand as a percent of available supply, keeping an eye on regional water supply by checking on the North Carolina Drought Monitor.

8. Effective Date

This ordinance shall be in full force and effect on the _____ day of _____, 2007.

INTRODUCED the ____ day of _____, 2007.

PASSED this ____ day of _____, 2007.

AYES:

NAYS:

ABSENT:

NOT VOTING:

APPROVED this ____ day of _____, 2007.

ARTICLE VII WATER CONSERVATION REGULATIONS

An Ordinance providing for conservation of water during a water shortage, and for restrictions on the use of water during severe shortages. BE IT ORDAINED by the Town Council that a water shortage shall be deemed to exist when water demand by customers connected to the Town water system reaches the point where continued or increased demand will equal or exceed the system supply and transmission capabilities. When demand results in the condition whereby customers cannot be supplied with water to protect their health and safety, then the demand must be substantially curtailed to relieve the water shortage.

Section 7-1. Declaration of Applicability of Ordinance.

In the event it appears that water demand on the Town water system may exceed supply and transmission capabilities, the Director of Public Utilities may recommend to the Town Manager that voluntary water conservation measures be implemented. The Town Manager, following consultation with the Town Council, may declare a Stage I Water Shortage Condition Advisory requesting voluntary water conservation by consumers. In the event that voluntary conservation measures fail to relieve the demand on the system, the Town may advance to a Stage II or Stage III Water Shortage Condition. The Town Manager, following consultation with the Town Council, may with or without the recommendation of the Director of Public Utilities, declare that a Stage II or Stage III Water Shortage condition exists.

Section 7-2. Reserved.

Section 7-3. Stage I Water Shortage Condition General Guidelines.

In the event a Stage I Water Shortage Condition is declared, the following guidelines shall apply:

- A. An extensive publicity campaign will be initiated using public media and specialized methods to inform the public of an impending or existing water shortage.
- B. Conservation measures will be encouraged and recommended.

Section 7-4. Specific Guidelines.

In the event a Stage I Water Shortage Condition is declared, the following guidelines shall apply and the public shall be encouraged to adhere to the following:

- A. Limit car washing to a minimum.
- B. Limit lawn and garden watering to that which is necessary for plants to survive.
- C. Do not wash down outside areas such as sidewalks, patios, parking lots, service bays or aprons, etc.

- D. Do not leave faucets running while shaving or rinsing dishes.
- E. Water shrubbery to the minimum required, reusing household water when possible.
- F. Limit use of clothes washer and dishwashers and when used, operate fully loaded.
- G. Use of showers for bathing, rather than bathtub and limit showers to no more than four (4) minutes.
- H. Limit flushing of toilets by multiple usage.
- I. The use of disposable and biodegradable dishes is encouraged.
- J. The use of flow restrictive and water saving devices is encouraged.
- K. Limit hours of operation of water-cooled air conditioners.
- L. All residents, businesses and institutions are requested to temporarily delay new landscape work until the water shortage has ended.

Section 7-5. Reserved.

Section 7-6. Stage II Water Shortage Condition Compliance.

In the event the Town Manager issues a declaration of a Stage II Water Shortage Condition, then it shall be unlawful for any person, firm or corporation, to use or permit the use of water from the Town water system for any purpose hereinafter set forth until such time as the declaration of water shortage has been rescinded. In exercising the authority for declaring a water shortage condition, consideration shall be given to water storage levels and available sources of supply, available usable storage on hand, draw-patterns and availability of water from other sources.

Section 7-7. Specific Guidelines.

In the event a Stage II Water Shortage Condition is in effect and any two (2) Town elevated storage tanks drop to ten (10) feet or less of storage, then a Stage II Water Shortage may be proclaimed. In addition to the voluntary guidelines already in effect, it shall be unlawful to use water supplied by the Town water system in the following manner:

- A. To water lawns, grass, shrubbery, trees, flowers and vegetable gardens except in accordance with the schedule approved by the Director of Public Utilities. Such watering shall be done by hand-held hose or container or drip irrigation system only.
- B. To fill newly constructed swimming and/or wading pools or refill swimming and/or wading pools which have been drained.

- C. To wash automobiles, trucks, trailers, boats, airplanes or any other type of mobile equipment, including commercial washing.
- D. To wash down outside areas such as streets, driveways, service station aprons, parking lots, office buildings, exteriors of existing or newly-constructed homes or apartments, sidewalks, patios, or to use water for other similar purposes.
- E. To use water from public or private fire hydrants for any purpose other than fire suppression or other public emergency.
- F. To operate or induce water into any ornamental fountain, pool, or pond or other structure making similar use of water.
- G. To serve drinking water in restaurants, cafeterias, or other food establishments, except upon request.
- H. To operate water-cooled air conditioners or other equipment that does not recycle cooling water, except when health and safety are adversely affected.
- I. To use water for any unnecessary purpose or to intentionally waste water.

Section 7-8. Reserved.

Section 7-9. Stage III Water Shortage Condition Compliance.

In the event the Town Manager issues a declaration of Stage III Water Shortage Condition, then it shall be unlawful for any person, firm or corporation to use or permit the use of water from the Town water system for any purpose hereinafter set forth until such time as the declaration of water shortage has been rescinded. In exercising the authority for declaring a water shortage condition, consideration shall be given to water storage levels and available sources of supply, available usable storage on hand, drawdown rates, the projected supply capability, outlook for precipitation, daily water use patterns and availability of water from other sources.

Section 7-10. Restrictions.

In the event a Stage II Water Shortage Condition exists and any three (3) elevated storage tanks drop to ten (10) feet or less, then a Stage III Water Shortage may be declared. In addition to the restrictions for Stage I and Stage II Water Shortage Conditions, the following restrictions shall also apply:

- A. To induce water into any pool.
- B. Use water outside a structure for any use other than an emergency involving a fire.
- C. Fire protection to be maintained by drafting of ponds, rivers, etc. wherever possible.
- D. The use of throw-away utensils and plates is encouraged and recommended at all eating

establishments.

- E. To operate an evaporative air conditioner which recycles water except during operating hours of business.

Section 7-11. Reserved.

Section 7-12. Lifting of Restrictions Imposed During a Water Shortage.

Water shortage conditions will expire when the Town Manager, after consultation with the Town Council and upon recommendation of the Director of Public Utilities deems that the condition which caused the alert has abated. The expiration or cancellation of water shortage declaration shall be promptly and extensively publicized.

Section 7-13. Penalties.

Any violation of the provisions of this Article shall constitute a misdemeanor, punishable upon conviction by a fine not to exceed fifty (\$50.00) dollars or imprisonment not exceeding thirty (30) days as provided by General Statute Section 14-4 and in addition thereto, such violation may be enjoined and restrained as provided in General Statute Section 153A-123.

Section 7-14. Discontinuance of Service.

Pursuant to the provisions of General Statute Section 162-88 and the Town Water Ordinance, service may be temporarily discontinued for willful disregard of this Ordinance and a fifty-five (\$55.00) dollar reconnect fee may be imposed before restoration of service. In the event of continued gross non-compliance of this Ordinance, the removal of meter will be deemed proper and service will be discontinued and all tap fees and deposits forfeited. Reconnection will only be made by payment of current due amounts, and new tap fees and deposits shall be paid.

- C. To wash automobiles, trucks, trailers, boats, airplanes or any other type of mobile equipment, including commercial washing.
- D. To wash down outside areas such as streets, driveways, service station aprons, parking lots, office buildings, exteriors of existing or newly-constructed homes or apartments, sidewalks, patios, or to use water for other similar purposes.
- E. To use water from public or private fire hydrants for any purpose other than fire suppression or other public emergency.
- F. To operate or induce water into any ornamental fountain, pool, or pond or other structure making similar use of water.
- G. To serve drinking water in restaurants, cafeterias, or other food establishments, except upon request.
- H. To operate water-cooled air conditioners or other equipment that does not recycle cooling water, except when health and safety are adversely affected.
- I. To use water for any unnecessary purpose or to intentionally waste water.

Section 7-8. Reserved.

Section 7-9. Stage III Water Shortage Condition Compliance.

In the event the Town Manager issues a declaration of Stage III Water Shortage Condition, then it shall be unlawful for any person, firm or corporation to use or permit the use of water from the Town water system for any purpose hereinafter set forth until such time as the declaration of water shortage has been rescinded. In exercising the authority for declaring a water shortage condition, consideration shall be given to water storage levels and available sources of supply, available usable storage on hand, drawdown rates, the projected supply capability, outlook for precipitation, daily water use patterns and availability of water from other sources.

Section 7-10. Restrictions.

In the event a Stage II Water Shortage Condition exists and any three (3) elevated storage tanks drop to ten (10) feet or less, then a Stage III Water Shortage may be declared. In addition to the restrictions for Stage I and Stage II Water Shortage Conditions, the following restrictions shall also apply:

- A. To induce water into any pool.
- B. Use water outside a structure for any use other than an emergency involving a fire.
- C. Fire protection to be maintained by drafting of ponds, rivers, etc. wherever possible.
- D. The use of throw-away utensils and plates is encouraged and recommended at all eating

establishments.

- E. To operate an evaporative air conditioner which recycles water except during operating hours of business.

Section 7-11. Reserved.

Section 7-12. Lifting of Restrictions Imposed During a Water Shortage.

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