

**AN ORDINANCE  
ADOPTING A BUSINESS LICENSE ORDINANCE FOR THE TOWN OF  
FRANKLIN.**

**WHEREAS**, the Acts of the State Legislature of the State of North Carolina empower and authorize the Board of Aldermen for the Town of Franklin to adopt ordinances, and to revise, amend, augment, recodify and restate ordinances adopted pursuant to that authority; and

**WHEREAS**, pursuant to N.C.G.S. §160A-194, the Town of Franklin is authorized to “regulate and license occupations, business, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience;” and

**WHEREAS**, pursuant N.C.G.S. §66-390 *et seq.*, the Town of Franklin is required to issue pawnbrokers licenses, consistent with the requirements set out in state law; and

**WHEREAS**, the Board of Aldermen finds that requiring the electronic registration of transactions conducted in the course of business by secondhand dealers (pawnbrokers and currency converters, precious metals dealers, and secondary metals dealers) is necessary to preserve the public health, welfare, safety, order and convenience, by ensuring that such transactions are conducted lawfully; and

**WHEREAS**, the Board of Aldermen finds that regulating the operation of businesses within the Town is necessary to preserve the public health, welfare, safety, order and convenience, by ensuring compliance with zoning regulations, allowing the Town’s emergency service personnel to be informed of buildings being used for commercial purposes, and assisting the Town Tax Collector in identifying property that should be listed for taxation;

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

**Section 1.** The existing Chapter 110 of the Town Code of Ordinances is repealed in its entirety.

**Section 2.** Pursuant to this ordinance, there is hereby adopted a new Chapter 110 of the Town Code of Ordinances, entitled “Business Licenses” and attached hereto as Exhibit A, and incorporated by reference as though fully set out herein.

**Section 3.** This ordinance shall be effective on July 1, 2015, except those portions of Chapter 110 as enacted by this ordinance and applicable to pawnbrokers and currency converters, precious metals dealers, and secondary metals dealers, which shall be effective immediately when this ordinance is enacted.

**Section 4.** Said ordinance shall be deemed published when it becomes effective and the Clerk of the Town of Franklin is hereby authorized and ordered to file a copy of said ordinance in the Office of the Town Clerk upon that date.

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

**ADOPTED:** This 1<sup>st</sup> day of December, 2014, upon motion by Alderman Handley, seconded by Alderman Curtis, and having been approved by a vote of 6 in favor and 0 against.

**TOWN OF FRANKLIN**

By: \_\_\_\_\_  
Robert S. Scott, Mayor

**ATTEST:**

\_\_\_\_\_  
Chad Simons, Clerk

## CHAPTER 110: BUSINESS LICENSES

### GENERAL PROVISIONS

#### § 110.01 DEFINITIONS.

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

**AGENT.** The person having the agency for the manufacturer, producer, or distributor.

**BUSINESS.** Any business, trade, occupation, profession, avocation or calling of any kind, subject, by the provision of this chapter, to the requirement of a business license.

**DEALER.** As defined in G.S. §66-406 and any amendments thereto.

**ENGAGED IN THE BUSINESS.** Engaged in the business as owner or operator.

**FISCAL YEAR.** The period beginning with the 1<sup>st</sup> day of July and ending with the 30<sup>th</sup> day of June next following.

**FIXED LOCATION.** Any site occupied by a secondhand dealer as the owner or lessee of the site under a lease or rental agreement providing for occupation of the site by the secondhand dealer for a total duration of not less than 364 days.

**PAWNBROKERS.** As defined in G.S. §66-387 and any amendments thereto.

**PERSON.** Any person, firm, partnership, company or corporation.

**PRECIOUS METALS DEALER.** As defined in G.S. §66-406 and any amendments thereto.

**QUARTER.** Any three consecutive months.

**SECONDARY METALS RECYCLER.** As defined in G.S. §66-420 and any amendments thereto.

**SECONDHAND DEALER.** Any person, sole proprietorship, partnership, joint venture, corporation, company, association or any other form of organization whose regular business is buying or exchanging, in any manner, at retail or wholesale, or otherwise dealing for profit in, secondhand goods. Included within this definition and article are those entities subject to and regulated under G.S. §§66-385 through 66-399 (pawnbrokers and cash converters), G.S. §§66-405 through 66-419 (precious metals) and G.S. §§66-420 through 66-439 (secondary metals).

**SELLER.** Any person or business which does not meet the definition of a secondhand dealer and sells and/or exchanges secondhand goods to a secondhand dealer.

Any amendments to state law or regulation shall be automatically incorporated herein.

#### §110.02 TOWN MANAGER MAY NAME DESIGNEE.

The Town Manager is authorized to designate a town employee to perform the duties assigned to the Town Manager in this chapter.

#### §110.03 BUSINESS LICENSE REQUIRED.

It shall be unlawful for any person or his agent or servant to engage in or carry on a business in the Town for which there is required a license, without first having secured a business license as required by this chapter. For the purpose of this subchapter the opening of a place of business or offering to sell, followed by a single sale or the doing of any act or thing in the furtherance of the business shall be construed to be engaging in or carrying on the business; and each day that the person, firm or corporation shall engage in or carry on the business as aforesaid, shall be construed to be a separate offense.

#### **§ 110.04 APPLICATION.**

(A) Every person desiring to obtain a business license pursuant to this chapter shall apply to the Town Manager for each license required by this chapter prior to beginning operations. The information shall be submitted on a form provided by the Town Manager, and shall contain the following information:

- (1) The name of the applicant and whether the applicant is an individual, a partnership, a corporation, or some other entity;
- (2) The address where the business is conducted and a mailing address for the business, if different;
- (3) All telephone numbers applicable to business;
- (4) The start date in which the business will begin in the town, along with the application date;
- (5) The name and address of the person filling out the application and his relationship to the business;
- (6) The nature of the business.

(B) All applications will be forwarded by the Town Manager to the town and county departments that require review and/or approval of the application prior to the license being issued.

#### **§ 110.05 REFUSAL OR REVOCATION OF LICENSE.**

(A) The Town Manager shall refuse to issue a business license or shall revoke a license for the following reasons:

- (1) The applicant fails or refuses to provide all information required in the application.
- (2) Approval of zoning certificate or any other applicable inspections is denied.

(B) Upon revocation of any business license, it shall be unlawful for the person to whom such license was granted to continue to conduct such business.

## **§ 110.06 REVOCATION.**

(A) The Town Manager shall revoke a license if a reason exists to revoke it as set forth in §110.05. Before revoking a license, the Town Manager shall give the licensee written notice of the grounds for revocation, in accordance with §110.05. The licensee, within ten days of receipt of written notice, may require in writing a conference with the Town Manager. The request shall specify the reasons why the license should not be revoked. The Town Manager shall arrange the conference within a reasonable time, not to exceed 30 days.

(B) If the licensee fails to request a conference within ten days of receipt of written notice, the Town Manager shall revoke the license. If the licensee requests a conference, the Town Manager may not revoke the license until after the conference. If the Town Manager revokes a license, the former licensee may apply for a new license at any time thereafter. If the reason for which the license was revoked no longer exists and if no other reason exists for refusing to issue a license, the Town Manager shall issue the license in accordance with §110.04.

## **§ 110.07 FORM AND CONTENT OF BUSINESS LICENSE.**

A license shall show the name of the person licensed, the place where the business is conducted (if it is to be conducted at one place), the nature of the business licensed, and the period for which the license is issued. The Town Manager shall keep a copy of each license issued.

## **§ 110.08 ASSIGNMENTS.**

A license shall not be reassigned or transferable. If a business is sold, the new owner must report the change under §110.09 and a new license will be issued upon application as required by this chapter.

## **§ 110.09 CHANGES IN BUSINESS LICENSE DURING YEAR.**

A licensee shall report changes in the information contained in the license application to the Town Manager within ten days after the change occurs.

(A) If there are no reasons for revoking the license under §110.05, the Town Manager shall reissue a license reflecting the change.

(B) If there is a reason for revoking the license under §110.05, the Town Manager shall refuse to reissue a license and shall begin proceedings to revoke the license in accordance with §110.06.

**§ 110.10 LICENSE SHALL BE FOR TWELVE MONTHS.**

Each business license issued pursuant to this chapter shall be for 12 months.

**§110.11 BUSINESS LICENSE REQUIRED FOR EVERY SEPARATE BUSINESS.**

The obtaining of a business license pursuant to this chapter for any given business shall not relieve the person obtaining the same from the obligation to obtain a separate license for any other business that person may carry on, it being the intent of this chapter that business licenses prescribed shall be cumulative except where otherwise specifically provided.

**§110.12 LICENSE REQUIRED FOR EVERY PLACE OF BUSINESS**

A business license issued pursuant to this chapter is only valid for the business conducted at that place and by the licensee named therein. Every person doing business in more than one factory, mill, warehouse, store, stall, stand or other place of business shall secure a separate license for each place of business, unless the places of business are contiguous to each other, communicate directly with an opening into each other and are operated as a unit. If the business is moved or if the licensee sells to another then a new license is necessary.

**§110.13 LICENSE MUST BE DISPLAYED AT THE PLACE OF BUSINESS.**

Every license must be kept prominently displayed at the place of business of the licensee named in the license, or, if the licensee has no fixed place of business, the licensee must keep the same wherever the business is being operated and where it can be inspected at any time by the proper municipal official.

**§ 110.14 FEES; NO REFUNDS ALLOWED.**

Each licensee shall, before a business license may be issued by the town, pay an administrative fee to be set by the Town Manager, but not to exceed Ten Dollars (\$10.00). No business license fee shall be refunded, in part or in whole, in any case where the licensee discontinues the business before the end of the period for which the license was issued.

**§ 110.15 ZONING COMPLIANCE.**

No business license shall be issued unless the business to be engaged in at the location specified shall be in compliance with the Town's Unified Development Ordinance. The Town Manager shall develop a zoning compliance statement to be verified by the Land Use Administrator on each application for a license pursuant to this chapter, and no license shall issue until such verification is obtained. In the event that it is determined by the Land Use Administrator that any licensee or applicant for a business

license is conducting or desires to conduct a business activity pursuant to a business license which activity would be in violation of any provision of the Unified Development Ordinance with respect to permitted and prohibited uses, the Town Manager shall refuse to issue the license, and shall so notify the licensee or applicant in writing.

**§§110.16-110.20 Reserved for future codification.**

**§ 110.21 REGISTRY OF BUSINESSES LICENSED.**

The Town Manager shall maintain a registry of each business licensed pursuant to this chapter, and the same shall be made available to the town's fire department and police department, in order that emergency response personnel may be informed as to the business uses of property within the town.

**§ 110.22 EXEMPTIONS.**

Any person or business that is required, by state or federal law, to pay for a privilege license or similar fee shall be exempt from the provisions of this chapter. Any person or business holding a license issued by an occupational licensing board of the state of North Carolina as to a business or trade that such person has been licensed to practice or pursue by the state shall be exempt from the provisions of this chapter. Any person conducting door-to-door activities of a political or religious nature shall be exempt from the provisions of this chapter.

**§§110.23-110.29 Reserved for future codification.**

***PAWNBROKERS AND CURRENCY CONVERTERS***

**§ 110.30 PAWNBROKERS LICENSE REQUIRED.**

Pursuant to G.S. §66-390, any person wishing to operate a pawnshop, or conduct any pawn or pawn transaction shall first obtain a pawnbrokers license. The said license shall be obtained through the same procedure set out in this chapter, except that in addition to the information required under §110.04, the petitioner shall submit the following, as required by G.S. §66-390:

- 1) A statement indicating the amount of net assets or capital proposed to be used by the petitioner in operation of the business (which shall be accompanied by an unaudited statement from an accountant or certified public accountant verifying the information contained in the accompanying statement);
- 2) An affidavit by the petitioner that he has not been convicted of a felony; and
- 3) A certificate from the town's chief of police, or the State Bureau of Investigation that the petitioner has not been convicted of a felony.

The petitioner under this section may arrange for the SBI to provide the required certificate, which must be sent directly from the SBI by mail addressed to the Town Manager. Otherwise, the Town Manager shall forward applications for pawnbrokers licenses to the police department for verification. In order to recoup the cost of the

certification required under this section, if performed by the police department, the Town Manager may establish a fee in addition to the \$10.00 maximum business license fee authorized by this chapter, not to exceed \$75.00.

### **§ 110.31 BOND.**

Pursuant to G.S. §66-399, any pawnbroker licensed under this chapter shall, at the time of receiving the license, file with the town a bond payable to the town in the sum of five thousand dollars (\$5,000), to be executed by the licensee and by two responsible sureties or a surety company licensed to do business in the State of North Carolina and acceptable in the sole discretion of the town, which shall be for the faithful performance of the requirements and obligations pertaining to the business so licensed. The town may sue for forfeiture of the bond upon a breach thereof. Any person who obtains a judgment against a pawnbroker and upon which judgment execution is returned unsatisfied may maintain an action in that person's own name upon the bond, to satisfy the judgment.

### **§ 110.32 REFUSAL TO ISSUE LICENSE; REVOCATIONS.**

The Town Manager shall refuse to issue a license required by §110.30 of this chapter pursuant to §§110.05-110.06, or in the case that the petitioner fails to supply any additional information as required by §110.30 or state law. In revoking a license, the Town Manager shall follow the same procedure set out in this chapter, which shall constitute the hearing required by G.S. §66-390(d).

### **§ 110.33 EXEMPTIONS.**

(A) The following businesses/persons shall be exempt from the provisions of this article unless otherwise regulated under G.S. §§66-385 through 66-399 (pawnbrokers and cash converters), G.S. §§66-405 through 66-419 (precious metals) and G.S. §§66-420 through 66-439 (secondary metals):

- (1) A person or business whose only business transactions with secondhand goods in the town consist exclusively of donated items and/or purchases from 501(c)(3) organizations.
- (2) A person or business whose only business transactions with secondhand goods in the town consist of the sale of personal property acquired for household or other personal use such as garage sales, yard sales, estate sales and/or auctions held by a licensed auctioneer.
- (3) A person or business whose only business transactions with secondhand goods in the town consist of a display space, booth or table maintained for displaying or selling merchandise at any trade show, convention, festival, fair, flea market, swap meet or similar event that is not in a fixed location.

- (4) Fixed location antique dealers whose sole business involves the buying, selling and trading of antiques.
- (5) Businesses whose sole business involves the buying, selling, trading, and selling on consignment of clothing, shoes, books and animals.
- (6) Auction house businesses whose sole business involves the buying, selling and trading of property by auction open to the public.
- (7) Businesses whose sole business involves the buying, selling, and trading of property registered by the state department of transportation, division of motor vehicles.

(B) Purchase or exchange transactions with a fair market value totaling less than \$25.00 shall be exempt from the provisions of this article unless otherwise regulated under G.S. §§66-385 through 66-399 (pawnbrokers and cash converters), G.S. §§66-405 through 66-419 (precious metals) and G.S. §§66-420 through 66-439 (secondary metals).

### **§ 110.34 ELECTRONIC RECORD KEEPING REQUIRED.**

(A) Every secondhand dealer shall obtain the statutorily-required information for each purchase transaction.

(B) All secondhand dealers shall further obtain the following information when purchasing or exchanging secondhand goods from a seller at the secondhand dealer's place of business:

- (1) A clear and accurate description of the property, including model and serial number if indicated on the property;
- (2) The name, residence address, phone number and date of birth of the seller;
- (3) The date and time of the sale;
- (4) Type of identification and the identification number accepted from the seller;
- (5) A description of the seller, including approximate height, weight, sex and race; and
- (6) Amount of consideration given for the property.

(C) All secondhand dealers shall, within 48 hours of the transaction, electronically submit the information required in subsections (A) and (B) of this section to the town police department. At the designation of the police chief, such transmissions shall be made to the agency or company that the police department contracts to provide online data pertaining to reported stolen goods.

(D) In the event that a secondhand dealer does not have online access or a technological failure prevents a secondhand dealer from reporting electronically, the secondhand dealer shall immediately notify the police department of the failure and have physical records of the information required in subsections (A) and (B) of this section submitted each regular business day to the police department. Upon resolution of the technological failure, the secondhand dealer shall submit the required information electronically to the police department from each regular business day the technological failure existed.

(E) Any secondhand dealer, with the exception of secondary metal recyclers, convicted of violating any provision of this article shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$500.00. Secondary metal recyclers convicted of violating any provision of this article shall be subject to the provisions set forth in G.S. §66-429.