

CODIFIED ORDINANCES OF FRANKLIN

PART SIXTEEN - FIRE PREVENTION CODE

Chap. 1610. BOCA National Fire Prevention Code.

Chap. 1620. Emergency Service Provider Cost Recovery.

CODIFIED ORDINANCES OF FRANKLIN

PART SIXTEEN - FIRE PREVENTION CODE

CHAPTER 1610

BOCA National Fire Prevention Code.

1610.01	1993 edition adopted; file	1610.04	Amendments.
	copies.	1610.05	Conflict of laws.
1610.02	References in Code.	1610.99	Penalty.
1610.03	Publication.		

CROSS REFERENCES

Fires and fire protection generally - see M.C.L.A. 29.1 et seq., 41.181, 125.401 et seq., 750.240 et seq.

Fire limits - see CHTR. Ch. II, §2(5)

Contracts with Fire Department - see CHTR. Ch. II, §2(13)

Fire Department generally - see ADM. Ch. 244

Recovery of costs for incendiary-type fires - see ADM. 244.02

Open burning - see GEN. OFF. 678.01

Permits and fees for flammable liquids - see B. & H. 1440.04

1610.01 1993 EDITION ADOPTED; FILE COPIES.

A certain document, three copies of which are on file in the office of the Village Clerk, being marked and designated as the BOCA National Fire Prevention Code/1993, ninth edition, published by Building Officials and Code Administrators International, Inc., is hereby adopted as the Fire Prevention Code of the Village for the control of buildings and structures as therein provided. Each and all of the regulations, provisions, conditions and terms of the BOCA National Fire Prevention Code are hereby referred to, adopted and made a part of this chapter by reference, as if fully set out in this chapter, save and except such portions as are hereinafter amended or deleted.

1610.02 REFERENCES IN CODE.

References in the BOCA National Fire Prevention Code, as adopted in Section 1610.01, to "State" shall mean the State of Michigan, references to "municipality" or "jurisdiction" shall mean the Village of Franklin; references to the "charter" shall mean the Charter of the Village of Franklin; references to "local ordinances" shall mean ordinances of the Village of Franklin; reference to the "code" shall mean the BOCA National Fire Prevention Code.

1610.03 PUBLICATION.

The Clerk of the Village of Franklin shall publish this chapter in the manner required by law and shall at the same time publish a supplementary notice setting forth the purpose of the BOCA National Fire Prevention Code and the fact that complete copies of such Code are available at the office of the Clerk for inspection by the public at all times.

1610.04 AMENDMENTS.

The following sections and subsections of the BOCA National Fire Prevention Code, as adopted in Section 1610.01, are hereby amended or deleted as set forth and additional sections and subsections are added as indicated. Section numbers used in this section shall refer to the like numbered sections in the BOCA National Fire Prevention Code.

Section F-102.4 is hereby added to read as follows:

Applicability of other laws: Nothing in this code shall be construed, interpreted or applied to abrogate, nullify or abolish any law, ordinance, code or charter adopted by the jurisdiction, governing the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of buildings specifically provided herein. Nothing contained herein is intended to imply permission for uses prohibited by the Charter of the Village of Franklin or other Village ordinances, including, but not limited to, the Zoning Code.

Section F-105.2 is hereby amended to read as follows:

Appointment: The fire official shall be appointed by the President of the Village. The President of the Village may, in making his or her appointment, consider the recommendation of the Board of Fire Commissioners of the Franklin Volunteer Fire Department, Inc. It shall be the duty and responsibility of the fire official to enforce the provisions of the Fire Prevention Code in a manner set forth and by means of the authority granted in Sections F-105.0 and F-106.1, as amended. The fire official shall serve at the pleasure of the President of the Village of Franklin for a term of one year or until his or her successor shall be appointed. The fire official shall serve the Village of Franklin without compensation by the Village of

Franklin, provided, however, that this shall not preclude compensation for the fire official as an employee of the Franklin Volunteer Fire Department, Inc. In carrying out the intent of the Fire Prevention Code, as provided herein, the fire official may delegate responsibility for the performance of various functions to a single designated individual with the approval of the President of the Village of Franklin. Such individual shall be known as the fire inspector.

Section F-106.6 is hereby amended to read as follows:

Rules and regulations: The fire official shall have authority, as may be necessary in the interest of public safety, health and general welfare, to implement the provisions of the Fire Prevention Code, to secure the intent thereof and to designate requirements applicable because of climatic or other conditions through the procedures prescribed in Section F-106.0.

Section F-106.9 is hereby added to read as follows:

Referral of violations: Notwithstanding any provision of this code to the contrary, the fire official or his or her designated fire inspector shall refer all violations or alleged violations of this code to the Village President for enforcement action, in accordance with the Franklin Village Charter.

Section F-106.10 is hereby added to read as follows:

Council approval of permits: Certain permits as specified in this code shall require approval by the Village Council.

Section F-107.2 is hereby amended to read as follows:

Permits required: Permits are required for the various uses and activities provided in this code and in the Business Regulation and Taxation Code of the Village (Part Eight of the Codified Ordinances of the Village). Permits shall at all times be kept on the premises designated therein and shall at all times be subject to inspection by the fire official.

Section F-107.8 is hereby amended to read as follows:

Payment of fees: A permit shall not be issued until the designated fees have been paid. A schedule of such fees shall periodically be submitted by the fire official to the Village Council for its consideration. Upon acceptance or modification of such schedule by the Council, and in compliance with the provisions of Chapter VI of the Charter of the Village of Franklin, such fee schedule shall be enacted by ordinance or resolution. In the absence of such a schedule, all permits required

under this code shall require a fee of fifty dollars (\$50.00), which shall be obtained by the Village of Franklin to offset costs of administration in the issuance of permits and initial building inspections.

Section F-112.1 is hereby amended to read as follows:

Notice of violation: Whenever the fire official observes an apparent or actual violation of a provision of this code, he or she shall prepare a written notice of violation describing the condition deemed unsafe and specifying time limits for the required repairs or improvements to be made to render the building, structure or premises safe and secure. The written notice of violation of this code shall be served upon the owner, his or her duly authorized agent or the occupant or other person responsible for the conditions under violation. Such notice of violation shall be served either by delivering a copy of the same to such person or persons or by sending a copy by ordinary mail to his or her last known post office address, or by delivering a copy to and leaving it in the possession of any person in charge of the premises, or, in case such person is not found upon the premises, by affixing a copy thereof in a conspicuous place at the entrance door or avenue of access, and such procedure shall be deemed the equivalent of personal notice. A copy of such written notice of violation shall also be provided to the Clerk of the Village of Franklin and the President of the Village of Franklin at the same time it is delivered to the owner, authorized agent, occupant or other person responsible for the conditions in violation.

Section F-112.2 is hereby amended to read as follows:

Failure to correct violations: If the notice of violation is not complied with within the time specified by the fire official, he or she shall notify the Clerk of the Village of Franklin, and the President of the Village of Franklin shall then request the legal counsel of the Village of Franklin to institute the appropriate legal proceedings to restrain, correct or abate such violation or to require removal or termination of the unlawful use of the building or structure in violation of the provisions of this code or of any order or direction made pursuant thereto.

Section F-112.3 is hereby amended to read as follows:

Penalty for violations: Any person, firm or corporation violating any of the provisions of this code, or failing to comply with any order issued pursuant to any section thereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to the penalty provided in Section 202.99 of the Codified Ordinances of the Village of Franklin.

Section F-112.4 is hereby amended to read as follows:

Abatement of violation: The imposition of the penalties herein described shall not prevent the legal officer of the Village of Franklin, under the direction of the President of the Village of Franklin, from instituting an appropriate action to prevent unlawful construction, or to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, business or use of a building or structure in or about any premises.

Section F-113.2 is hereby amended to read as follows:

Membership of board: The board of appeals shall be the Franklin Village Council plus one person designated by the Franklin-Bingham Volunteer Fire Department Board of Commissioners.

Section F-113.2.1 Qualifications: This section is hereby deleted.

Section F-113.2.2 Alternate members: This section is hereby deleted.

Section F-113.2.3 is hereby amended to read as follows:

Chairman: The chairman shall be the Village President.

Section F-113.2.5 is hereby amended to read as follows:

Secretary: The Secretary shall be the Village Clerk.

Section F-113.2.6 is hereby amended to read as follows:

Compensation of members: There shall be no compensation to members.

Section F-113.4.1 is hereby amended to read as follows:

Procedure: The board shall use the Franklin Village Council Rules of Procedure unless other procedures are adopted.

Section F-113.6 is hereby amended to read as follows:

Board decision: The board of appeals shall have authority to decide appeals where it is alleged that there is an error of law in any ordinance, requirement, decision or determination made in the enforcement of this code. The board of appeals shall have authority to grant such variance as may be in harmony with the general purpose and intent of this code, provided that public safety and welfare

are secured. All decisions by the board shall require a majority concurring vote and it shall require at least three members of the board to conduct the business of the board.

Section F-202.0 is hereby amended to change the definition of "Rubbish" to read as follows:

Rubbish: Rubbish means miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals or any similar or related combinations thereof; useless waste or rejected matter, including, but not limited to, garbage, used or unwanted lumber, paint, rags, plastic materials of any kind, shingles, papers, litter, refuse, paper boxes or boxes made of other material, vegetable matter (excluding leaves and branches less than one and one-half inches in diameter), or animal matter, petroleum products, such as gasoline, and paint thinners.

Section F-403.3 is hereby amended to read as follows:

Allowable burning: Add: Open burning of leaves shall be allowed.

Section F-403.4.3 Open burning prohibited: This section is hereby deleted.

Section F-403.9 is hereby added to read as follows:

Notification and permission: Any burning under this section shall also require the approval of the Franklin Village Council. This section shall not apply to the burning of leaves.

Section F-403.10 is hereby added to read as follows:

Notification: This section shall not apply to the burning of leaves in accordance with this Chapter 4.

Section F-403.11 is hereby added to read as follows:

Outdoor burning: Outdoor burning of rubbish within the Village limits shall be prohibited at all times, provided, however, that this section is not intended to prohibit or restrict the indoor burning of wood, heating oil or other products or materials intended for and used in fireplaces, or other devices constructed for the heating of structures, and further provided that this Chapter 4 shall not be construed to prohibit the outdoor burning of leaves or branches less than one and one-half inches in diameter.

Section F-403.12 is hereby added to read as follows:

Burning of leaves: Sections F-403.1 through F-403.11 are to be considered inapplicable with reference to the burning of leaves, except that such burning shall be prohibited where it is deemed to constitute a hazard to pedestrian and/or vehicular traffic.

Section F-2301.2 is hereby amended to read as follows:

Permit required: Add: A permit shall be approved by the Village Council prior to issuance by the code official.

Section F-3001.2 is hereby amended to read as follows:

Permit required: A permit must be obtained from the Village Council.

Section F-3009.1 is hereby amended to read as follows:

Time: Add: All blasting must be approved by the Village Council.

Section F-3101.2 is hereby amended to read as follows:

Permit required: A permit shall be obtained from the Village Council for the display, sale or discharge of fireworks.

Section F-3101.3 is hereby amended to read as follows:

Permit issuance: Add: Application must be made 75 days in advance of the date of display or discharge of fireworks.

1610.05 CONFLICT OF LAWS.

(a) In the event of a conflict between any of the provisions of the BOCA National Fire Prevention Code, as adopted in Section 1610.01, and a provision of any local ordinance, resolution, rule or regulation, the local ordinance, resolution, rule or regulation shall control.

(b) In the event of a conflict between any of the provisions of such Code and a provision of any State law, rule or regulation, the State law, rule or regulation shall control.

(c) In the event of a conflict between any of the provisions of such Code and a provision of any other technical code adopted by reference by the Village, the stricter or higher standard shall control.

1610.99

PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

CHAPTER 1620
Emergency Service Provider Cost Recovery

1620.01	Purpose.	1620.05	Public utilities cost reimbursement.
1620.02	Definitions.		
1620.03	Responsibility for costs of emergency response.	1620.06	Collection of cost of the emergency response.
1620.04	Responsibility for cost of citizen assist.		

1620.01 PURPOSE.

The Village Council determines the cost of providing emergency responses, nonemergency "citizen assists" and public utility hazard protection services that benefit specific persons or property or are necessitated by intentional, negligent or unlawful acts or omissions or result from a public utility facility malfunction or hazard should be borne by the responsible persons or public utility and not the public at large. Therefore, pursuant to MCL 41.806a, MCL 769.1f and MCL 324.20101 et seq., the cost of emergency responses should be recovered as prescribed in this chapter. (Ord. 2009-09. Passed 12-14-09.)

1620.02 DEFINITIONS.

As used in this chapter, the words and phrases listed below shall have the following meanings:

- (a) Citizen assist shall mean a non-emergency service requested by and provided to a citizen.
- (b) Costs of the citizen assist shall mean the costs incurred by the Village or Police or Fire Departments, and by any other governmental or intergovernmental entity providing services to the Village, for or in connection with a citizen assist. Costs include the cost of personnel (wages, overtime and benefits), contracted services, apparatus and equipment usage, fuel, supplies and material incurred in connection with the citizen assist.
- (c) Costs of the emergency response shall mean the costs incurred by the Village or Police or Fire Departments, and by any other governmental or intergovernmental entity providing services to the Village, for or in connection with an emergency response. Costs include the cost of personnel (wages, overtime and benefits), contracted services, apparatus

and equipment usage, fuel, supplies, materials, water, oversight, investigation, removal, maintenance, repair, abatement, mitigation, monitoring, cleanup, inspection, testing, analysis, processing, reporting, crowd and traffic control, security, site restoration, repair or replacement of damaged public property, collection and preservation of evidence, enforcement and prosecution inclined in connection with the emergency response.

- (d) Emergency response shall mean any police, fire, medical, rescue, transport or hazardous material incident response, service or action by emergency service providers including the Police and Fire Departments; dispatch; contractors, entities or persons operating at the request of the Police or Fire Departments or any other responder as set forth in the National Incident Management System (Homeland Security Presidential Directive 5), to any emergency, accident or call for assistance from any person, property owner, government agency, or emergency service provider.
- (e) Hazardous material incident shall mean an event involving any chemical, substance, compound, mixture, or other material defined, designated, listed, or having the same characteristics as any substance, compound, mixture or material listed as hazardous under federal or state law or regulation.
- (f) Person shall mean any individual, partnership, corporation, limited liability company, association, consortium, organization, government agency, or any other legal entity. (Ord. 2009-09. Passed 12-14-09.)

1620.03 RESPONSIBILITY FOR COSTS OF EMERGENCY RESPONSE.

- (a) The costs of the emergency response shall be assessed to and recovered from the person(s) responsible for creating or causing the emergency or incident resulting in the emergency response in the following circumstances, except as may be limited by policy adopted by the Village Council:
 - (1) Where the emergency or incident results from a violation of a federal, state or local law, regulation or ordinance or from a reckless, careless or negligent act or omission;
 - (2) Where the person is arrested for, or is involved in a motor vehicle accident in connection with, the person's operation of a motor vehicle while impaired by or under the influence of intoxicating liquor or a controlled substance; or

- (3) In any other instance where the Village or Police or Fire Departments have to expend funds out-of-pocket or are charged or invoiced for water, services, equipment, supplies or other materials used in connection with the emergency response.
- (b) Cost recovery for any hazardous material incident may be pursued in a civil action in accordance with the Natural Resource Environmental Protection Act (MCL 324.20135(1)(b)).
(Ord. 2009-09. Passed 12-14-09.)

1620.04 RESPONSIBILITY FOR COST OF CITIZEN ASSIST.

Any person who receives a citizen assist more than twice in any calendar year shall be responsible for the costs of any additional citizen assist(s) occurring in the same year.

1620.05 PUBLIC UTILITIES COST REIMBURSEMENT.

All public utility companies operating in the Village shall be responsible for reimbursing the cost of services rendered by the Village and police and fire departments to protect public safety as a result of a public utility facility malfunction or hazardous condition created by the operation of public utility facilities.

(Ord. 2009-09. Passed 12-14-09.)

1620.06 COLLECTION OF COST OF THE EMERGENCY RESPONSE.

(a) The cost of the emergency response, citizen assist, or public utility protection together with billing and collection costs, court costs, and attorney fees, shall be assessed to the person(s) responsible for the cost under Section 1620.03 through 1620.05, above. Upon determining responsibility for the cost, the Police Chief, Fire Chief or Village administration shall invoice the responsible person(s) for payment. The responsible person(s) shall pay the invoice within thirty (30) days.

(b) The Police and Fire Departments may develop administrative guidelines consistent with this Chapter concerning record keeping, billing and collection practices and determination of costs.

(c) A person who is assessed the cost of an emergency response, citizen assist or public utility protection may appeal to the Village Council which may affirm, modify or waive the cost.
(Ord. 2009-09. Passed 12-14-09.)

