TOWN OF FALCON
COMMUNITY STANDARDS ORDINANCE

ADOPTED: August 3, 2009
EFFECTIVE: August 3, 2009

CUMBERLAND COUNTY JOINT PLANNING BOARD

TOWN OF FALCON
COMMUNITY STANDARDS ORDINANCE

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AN ORDINANCE REGULATING THE MINIMUM ACCEPTABLE STANDARDS FOR APPEARANCE OF PROPERTIES LOCATED WITHIN THE CORPORATE LIMITS OF THE TOWN OF FALCON AND ENFORCEMENT OF THE SAME.

BE IT ORDAINED BY THE TOWN OF FALCON BOARD OF COMMISSIONERS THAT THE BOARD OF COMMISSIONERS ADOPTS AND ENACTS THE FOLLOWING:

TOWN OF FALCON
COMMUNITY STANDARDS

ARTICLE I
ADMINISTRATIVE PROVISIONS

Sec. 101. Authority.

This ordinance is adopted pursuant to North Carolina General Statue 160A-174 *et seq.*, and for the purpose of defining, prohibiting, regulating, or abating acts, omissions, or conditions, detrimental to the health, safety or welfare of its citizens and the peace and dignity of the Town.

Sec. 102. Generally.

A. *Intent statement.* It is the intent of the Board of Commissioners of the Town of Falcon, by adopting this ordinance, to establish acceptable standards for appearance and quality of life issues for the Falcon community. The standards contained within this ordinance are intended to preserve the character and integrity, protect the property values, and to promote and preserve the visual and economic interests of the Town while protecting the public health, safety and welfare of the citizens. It is the Board's belief that this can be accomplished through uniformity of appearance and proper maintenance of the properties within the Town while ensuring the equitable application of these standards to its citizens.

B. *Legislative finding.* It is hereby found and determined that there exist within the area subject to the zoning jurisdiction of the Town premises that, because of the existence of the conditions herein determined to be unlawful, constitute a visual blight and detriment upon the surrounding neighborhood and create substantial and unreasonable interferences with the reasonable and lawful use and enjoyment of other premises in the neighborhood, or such conditions inhibit property values, deter tourism, interfere with the public health and safety, or otherwise discourage the comfort, happiness, emotional stability and general welfare of all citizens.

C. *Ordinance administrator.* This ordinance shall be administered and enforced by the County's Director of Planning and Inspections or the Director's designee. This official or their representative shall have the right to enter upon the premises in any manner authorized by law as required to carry out the necessary duties for the fair and impartial enforcement of this ordinance. All questions arising in connection with enforcement and interpretation of this ordinance shall be presented first to the County's Code Enforcement Coordinator who is charged with the day-to-day enforcement of this ordinance. If the County's Planning and Inspections Director finds that they are not authorized to make a determination or judgment or that the issue is questionable, the matter will be referred to the County Board of Adjustment in the same manner as established for the board's hearing of administrative appeals.

Sec. 103. Definitions.

For purposes of interpreting the provisions of this ordinance, certain words or terms are herein defined. Unless otherwise stated, the following words shall for the purpose of this ordinance have the meaning herein indicated:

Dead plant material: Any trees, shrubs or ground covers that show an absence of living tissue, such as stems or leaves, during a full growth cycle (spring to spring).

Junk: Any material or substance stored in the open or not enclosed in a building which does not serve, nor is intended to serve, any useful purpose or the purpose for which it was originally intended, including but not limited to: refuse; empty cans; bottles; debris; used furniture; used appliances; machinery parts; motor vehicle parts; remnants of wood, decayed, weathered or broken construction material no longer usable; metal; or any cast off materials.

Litter: Any discarded or abandoned, used or unconsumed substance or waste, including but not limited to: garbage, trash, refuse, debris, rubbish, newspaper, magazines, paper, plastic or paper containers or other packaging.

Noxious weed: Any plant designated by a Federal, State or local government as injurious to public health, agriculture, recreation, wildlife or property and is also commonly defined as a plant that grows out of place and is competitive, persistent, and pernicious. (*Source*: http://plants.usda.gov/java/noxiousDriver) For purposes of this ordinance, the Town shall determine weeds to be noxious if complying with the above definition and included on the U.S. Department of Agriculture, Natural Resources Conservation Service's *Noxious Weeds List.*

Nuisance: Any condition detrimental to the public health, safety and welfare that violate the rules and regulations of the Town and/or the County Public Health Department.

Open places: Areas of properties or potions thereof that are open to the exterior, including building openings of residential dwelling units, such as carports or porches

and any other exterior portions of properties ordinarily exposed to the outside and/or public view, including front, side and rear yards.

Public view: Any location within a normal range of vision as seen by the public from the right-of-way or a publicly owned property.

Quasi-public use: Institutional, academic, governmental, and community service uses, which are government (public) owned or operated, or provides a service to the general public under the authority of a governmental regulatory body.

Rubbish: The miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing, and offices, including other waste matter, such as yard debris and trimmings, tree branches, slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals or any similar or related combinations thereof.

Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Visible: Capable of being seen without visual aid by a person of normal visual acuity.

ARTICLE II
NUISANCES

The existence of any of the following conditions on any parcel of land, including vacant lots within the Town limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance.

Sec. 201. Structural.

A. *Structures*. All unsafe or deteriorated structures to include but not limited to storage buildings, sheds, and other similar structures shall not be permitted. In addition,

1. All structures shall be maintained in safe and substantial condition, in good structural condition and appearance, free from deterioration, rot, rust, or weathering; and

2. All unsafe or deteriorated structures as determined by the Code Enforcement Coordinator, or the Coordinator's designee, shall be repaired or removed within 30 calendar days of proper notice to the property owner.

B. *Fences and Walls.* All fences, retaining walls or similar features including landscape features that are not firmly anchored to the ground, maintained in good structural condition and appearance, or free of deterioration shall not be permitted. Wooden or other fence features subject to deterioration or weathering shall be properly maintained to retard deterioration or provide protection from the weather. Deteriorated features shall be replaced or repaired, or shall be completely removed and properly discarded. Electric fences or fences that are electrically charged, and fences that are constructed of barbed or razor wire shall be prohibited. This prohibition shall not apply to fences used to enclose livestock on a bona fide farm and those serving a public or quasi-public institution for public safety or security purposes as approved by the Code Enforcement Coordinator, or the Coordinator's designee.

Fence material is limited to wood, masonry, chain link, wrought iron, vinyl or a comparable material as approved by the Code Enforcement Coordinator, or the Coordinator's designee. Permitted material excludes material never intended for a fence. Any support or bracing shall face toward the interior of the property. Permitted fence colors are to be subtle and should not call negative or undue attention to its presence.

Sec. 202. Environment and grounds.

A. *Overgrown lots/yards.* The uncontrolled growth of noxious weeds or grass to a height in excess of 12 inches causing or threatening to cause a hazard to the public health or safety.

B. *Allowing dead animals to remain on property.* It shall be unlawful and is hereby declared to be a nuisance for any person to allow the dead carcass of any animal to remain upon any property longer than 15 hours.

C. *Noxious or offensive matter.* Emission or effluence of noxious or offensive particulate matter, dust, sludge and other materials or substances which tend to pollute or contaminate land, water or air, rendering or tending to render it injurious to human health, habitation or welfare, to animal or plant life, to property, or interfering or tending to interfere with the enjoyment of life or property; provided, however, that this subsection shall be construed consistent with and supplementary to, and not in conflict with, applicable state and federal laws and regulations.

D. *Litter.* Any junk, waste materials, unusable building materials, trash, garbage, oily rags, barrels, cans, papers, bricks, refuse, rubbish, or similar matter which is scattered, cast, placed or deposited in a yard or yards, so as to constitute an accumulation or concentration in an open area 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.

E. *Presence, accumulation, storage or placement of junk*. Junk, including but not limited to, deteriorated, unusable or inoperative furniture, furniture intended to be indoors, appliances, machinery, equipment, building materials, worn out and unused automobiles or parts, tires, or any other man-made items which are either in whole or in part, wrecked, junked, unused, worn out, dismantled or inoperative shall not be permitted on any property within the Town, unless said storage of junk has been otherwise approved under the regulations and ordinances of the Town and is not visible to the public view. In addition,

1. Storage of junk shall only be allowed on any properties used for non-residential purposes and if in compliance with all other Town regulations and ordinances, or if not addressed by a Town regulation or ordinance, storage of junk shall be completely enclosed within a building or otherwise evenly placed or neatly stacked and concealed by a solid fence, cover or other means so as to not be visible at the property line from abutting properties or any right-of-way;

2. Storage of junk shall only be allowed on any property used for residential purposes if completely stored in an enclosed building or limited to 200 square feet or less in area and completely concealed by a solid fence, cover or other means so as not to be visible from public view, concentrated in one area within the rear yard and neatly arranged or stacked so as not to exceed four feet in height; and

3. Whether stored on a residential or non-residential property such storage of junk shall be maintained in such a manner so as to prevent overgrown grass or weeds or an infestation of wild animals, reptiles and rodents.

F. *Parking on public rights-of-way and public-owned property*. Parking on any public right-of-way or other publicly owned property, except where legally authorized, within the Town's corporate limits is prohibited. This provision shall not be construed to apply to motor vehicle parking for vehicles in need of repair provided they are removed within 24 hours.

G. *Open burning*. Open burning of off-site collected debris, plant material, litter, rubbish, etc. within the Town's corporate limits shall be prohibited.

Sec. 203. Abandoned/junked vehicles.

The Town Board of Commissioners adopts through incorporation by reference the *Abandoned, Nuisance, and Junked Motor Vehicle Ordinance,* Article III of the Cumberland County Code, in its entirety, to include the enforcement and violation provisions. In addition to the items enumerated under Section 9-47, Exceptions, of the Cumberland County Code, the Town also "excepts" all non-tagged, non-registered vehicles of Armed Forces Service members that are deployed in support of military operations for a duration of six months or longer provided that the following conditions have been complied with:

A. The service member has notified the Town of their military-ordered absence and the expected duration of absence;

B. The service member has taken prudent actions to ensure the vehicle is protected and not left in an "abandoned" state; and

C. The service member has positioned the vehicle so that it is not visible from any public right-of-way and located in the side or rear yard of the service member's property.

Sec. 204. Noise.

The Town Board of Commissioners adopts through incorporation by reference the *Cumberland County Noise Ordinance,* Article II, Section 9.5-21 et seq. of the Cumberland County Code, in its entirety, to include the enforcement and violation provisions, with the following exceptions to Section 9.5-26(1), Exemptions from Section 9.5-24:

- To allow any Town-related function which has been approved and/or sanctioned by the Town Board of Commissioners.

ARTICLE III
LEGAL PROVISIONS

Sec. 301. Compliance.

All public and private land within the Town of Falcon shall be in compliance with the provisions set forth in this ordinance within a six month period after the effective date of this ordinance, or within a six month period after the effective date of annexation into the Town of Falcon or otherwise being made subject to this ordinance.

Sec. 302. Penalties.

The violation of any provision of this ordinance shall be a misdemeanor, punishable upon conviction by a fine of not more than $50.00 per week as provided in N.C. GEN. STAT. § 14-4 and except as otherwise provided in this ordinance, each violation of this ordinance shall constitute a separate and distinct offense. The Town Board of Commissioners reserve the right to reduce or eliminate the fine on a case by case basis upon the board's consideration of any extenuating circumstance(s) presented to the board by the property owner and in this instance, the fine shall be established by motion upon the majority vote of the board members present at the board meeting in which the extenuating circumstance(s) are presented. If a Code Enforcement Coordinator, or the

Coordinator's designee, finds that any provision of this ordinance is being violated, the Code Enforcement Coordinator, or the Coordinator's designee, shall cause to be served upon the offender or its agent, by certified mail, return receipt requested, or by personal service, a notice of civil citation. The notice of civil citation shall indicate the nature of the violation and order the action necessary to correct it. The citation shall also state the monetary penalty and the right of the offender to appeal the violation that is the basis of the citation to the County Board of Adjustment in the same manner as set forth for administrative hearings in the County Zoning Ordinance within ten days from the date of service of the citation.

Sec. 303. Amendments.

Amendments to the regulatory codes adopted by reference herein, which are from time to time adopted and published by the responsible Cumberland County agency referred to herein, shall be effective in the Town at the time such amendments are considered and adopted by the Town Board of Commissioners and subsequently filed with the Town Clerk.

Sec. 304. Severability.

If any provision herein is declared void or unenforceable by a court of competent jurisdiction or by legislation of the State, those portions not in conflict shall remain valid and in force.

Sec. 305. Effective date.

This ordinance, the *Town of Falcon Community Standards Ordinance*, shall be in full force and effect from and after its passage by the Town of Falcon Board of Commissioners. Adopted this 3rd day of August, 2009.

Clifton L. Turpin, Jr., Mayor

ATTEST:

Belinda D. White, Town Clerk