

MINUTES FOR BOARD OF ALDERMEN WORK SESSION
July 26, 2022
5:00 PM

The following elected officials were present: Mayor Coleman, Alderman Cearley, Alderman Milton, Alderman Withers, and Alderman Martin. Alderwoman Morrow was absent.

The following Staff members were present: Maria Stroupe, Town Manager; Nolan Groce, Development Services Director; Robbie Walls, Police Chief; Jonathan Newton, Finance Director; Brandon Whitener, Parks and Recreation Director; Bill Trudnak, Public Works Director; and Earl Withers, Fire Chief.

Mayor Coleman called the meeting to order at 5:00 pm.

The Mayor then opened with the Pledge of Allegiance to the Flag.

At this time, the Mayor asked if there were any changes to be made to the agenda. Alderman Cearley made a motion to approve the agenda with no additions or deletions, seconded by Alderman Martin, and carried unanimously.

New Business:

Item 3A Filming at Franklin Gym

In the past six months there has been interest in using the Dennis Franklin Gym for filming by two production companies. Currently, all uses of the Gym must be approved by the Board of Aldermen, in an effort to protect our aging facility. This discussion was to determine if the decision to allow filming at the Franklin Gym could be delegated to Staff. Usually, the filming schedules are fluid and an approval from the Board may be difficult to obtain in a timely manner based on Board meeting schedules.

Through discussion the Board is in favor of delegating the approval of use of the Franklin Gym for filming movies, commercials, or other similar productions to staff. Also discussed was use of the Historic Courthouse, Courthouse Grounds, and the recreation fields. An item will be presented at the August 9th Board of Aldermen meeting delegating the approval of filming requests by production companies to Staff, along with recommended fees and other requirements.

3B Credit Card Fees

Beginning June 1, 2021, the Town began charging a \$2.50 transaction fee for payments made with debit or credit cards. At the time, the fee should have covered the amount of service charges being assessed to the Town from the card payment processing vendor. Prior to June 2021, the Town had been paying the assessed fees with no pass-through to the customers using the cards as their payment method, but the costs were ever increasing and the decision was made to pass the fee on to the customer. Since instituting the fee, the card payment processing vendor

has increased and modified their fee structure, and a number of large customers have begun making their payments electronically. This combination has resulted in a loss to the Town for FY 2021-22 of \$27,933.41. Finance Director, Jonathan Newton presented potential options for discussion to address the gap in fees received versus fees charged.

Option 1 – Consider adopting the same fee schedule as the vendor.

Transaction amounts \$0.00 to \$85.01	\$2.50 per transaction
Transaction amounts \$85.02 +	2.95% per transaction

Option 2 – Consider adopting a 3-tiered fee schedule.

Transaction amounts \$0.00 to \$85.01	\$2.50 per transaction
Transaction amounts \$85.02 to \$500.00	\$3.25 per transaction
Transaction amounts \$500.01 +	2.95% per transaction

Option 3 – Consider adopting a 2-tiered fee schedule up to \$500.00.

Transaction amounts \$0.00 to \$85.01	\$2.50 per transaction
Transaction amounts \$85.02 to \$500.00	\$4.00 per transaction
Transaction amounts \$500.01 +	Only allow cash or check payments

While many people use card payments as a matter of convenience; the Town still accepts cash, money order, and check payments in-person, through the US Mail, or the two available drop boxes that do not result in any processing fees for the Town or the customer. The Town also offers bank draft for bill payment, at no charge to the customer.

After discussion, the Board asked that an item authorizing Option 2 be placed on the August 9th Board Meeting agenda for action.

3C Senate Bill 300 Text Amendments

Senate Bill 300 was approved in Fall 2021 and became effective December 1, 2021. This bill predominately focused on criminal justice reform, but also included changes to the enforcement of local ordinances. Under the new statutory language, local governments must amend local ordinances to specifically identify violations that may be enforced criminally. The language also limits the amount of allowable fees a local government may impose. The fees proposed in the text amendment are the maximum allowed statute. (Exhibit 3C, 1-6).

Upon review, the proposed text amendments will be brought to the August 9th Board Meeting as a public hearing for discussion and possible adoption.

3D Urban Beekeeping Text Amendment

While reviewing ordinance update for Senate Bill 300, Development Services staff examined the Urban Beekeeping Ordinance 90.02. Staff is recommending several modifications to the ordinance in relation to minimum setback requirements, screening, and general upkeep. (Exhibit 3D, 1-3).

Upon review, the proposed text amendment will be brought to the August 9th Board Meeting as a public hearing for discussion and possible adoption, with the addition of a provision to grandfather existing beekeeping sites to the current ordinance requirements.

3E COVID Protocols for Board Meetings

North Carolina Governor Roy Cooper has announced that the current State of Emergency declared for the COVID-19 pandemic will be ending on August 15, 2022. Currently, all attendees at Board Meetings go through a pre-screening process and seating is limited within the room. This discussion was to determine whether to end the current process or extend it beyond the ending of the State of Emergency.

As of the meeting date, Gaston County and surrounding areas are experiencing a resurgence in virus cases. Based on the immediate situation, the consensus was to leave the current procedures in place and assess on a month to month basis.

The Town Manager reminded the Board of up-coming events for the Town.

Alderman Withers made a motion to adjourn, seconded by Alderman Milton, and carried unanimously (5:44).

Rick Coleman, Mayor

Sarah Hamrick, Town Clerk

Credit Card Fee (Online) Options

Information:

This data was gathered using December 2021 through June 2022 online merchant transactions. I have put together (3) options in which we could go with, however; we will never be certain that we will cover the cost 100% unless we go with Option 1.

Totals:

Charges to TOD from BluePay (December to June)	\$40,638.57
Charges to TOD Customers (December to June)	<u>\$27,895.00</u>
	\$12,743.57

On Average (7) Months:

Charges to TOD from BluePay (December to June)	\$5,805.51
Charges to TOD Customers (December to June)	<u>\$3,985.00</u>
	\$1,820.51 (difference each month)

The Top 7 online transaction accounts are as follows:

Food Lion
 CVS
 Kou Vang
 Vignesh LLC
 Country Kitchen
 Papa's Pizza
 Cloninger Trucking LLC

Options to cover costs that we currently are receiving. **Note, the formula's are based on the top 7 accounts also remaining to pay their accounts online. Should these accounts stop paying online due to the amount of fee being associated with the transaction, we should fall back to option 1 and follow BluePay's fee schedule.

Option 1:

Consider adopting the same fee schedule as BluePay- Online Bill Pay

Transactions from \$0.00 to \$85.01	\$2.50 (per transaction)
Transaction from \$85.01 +	2.95% (per transaction)

Option 2:

Transactions from \$0.00 to \$85.01	\$2.50 (per transaction)
Transactions from \$85.01 to \$500	\$3.25 (per transaction)
Transaction greater that \$500	2.95% (per transaction)

**Note, the average amount paid by the top 7 accounts is roughly \$27,500 to \$33,000 which equates to \$811.00 to \$974.00 of fees in which TOD will have to pay should we not use a percentage per transaction.

Option 3:

Transactions from \$0.00 to \$85.01

\$2.50 (per transaction)

Transactions from \$85.02 to \$500

\$4.00 (per transaction) ** \$.75 more than option 2 to cover the

2.95% that BillPay charges the TOD.

Transactions over \$500.00

Only allow cash or check payments

Changes For Compliance:

Per NCGS 14-4.b:

§ 10.99 GENERAL PENALTY.

~~Any~~ Unless otherwise prohibited through North Carolina General Statute, any person, firm or corporation violating any of the provisions of any section or division of this code of ordinances for which no other penalty is provided, or failing or neglecting or refusing to comply with same, shall, upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed ~~\$50~~ \$500 and/or, when permitted by general statute, imprisonment not to exceed 30 days, and each day that any of the provisions of this code of ordinances are violated shall constitute a separate offense.

(G.S. § 14-4(a))

(G.S. § 14-4(b-c))

Statutory reference:

Enforcement of ordinances, see G.S. § 160A-175

§ 72.99

(A) *Generally.* Any person violating any of the restriction on stopping, standing or parking of motor vehicles imposed by ordinance of the town may, within 15 days of the time that a written notice for the violation was attached to his or her vehicle, pay to the official designated as a penalty for and in full satisfaction of the violation the sum of \$2. Upon failure to make the payment heretofore designated, a written notice shall be mailed to the person, and if payment not be made within 48 hours after the time of mailing of the notice, the person shall be subject to ~~punishment not to exceed \$50 or by imprisonment not to exceed 30 days~~ a fine not to exceed \$50.00. Each day past the 48 hour window payment to satisfy the penalty is not received shall be considered a separate and distinct offense subject to the above penalty.

(Prior Code, § H-IV-19)

(B) *Prima facie proof.* In any prosecution charging violation of any ordinance of the town governing the stopping, standing or parking of a motor vehicle, without a driver, proof that the particular vehicle was parked in violation of the ordinance, together with the proof that the defendant was at the time of the parking the registered owner of the vehicle, shall be prima facie proof of the fact that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred.

(Prior Code, § H-IV-20)

(Ord. passed 7-11-1978)

Per § 160-75A-175.b1**§ 110.99**

(A) (1) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(2) ~~The violation of any provision of this chapter shall be a misdemeanor punishable by a fine of \$100 plus cost and/or confinement in the County Jail for a term of not to exceed 30 days.~~ Violation of any provision of this chapter shall be punishable by a fine not to exceed \$500. Each day any provision of this chapter is in violation shall be a separate and distinct offense subject to the above penalty. In addition, the town specifically reserves the right to proceed in any court of competent jurisdiction for the purposes of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with §§ 110.01 through 110.10. The existence of this penalty is in addition to any and all provisions for business registration certificate revocation as detailed herein.

(B) (1) Violation of any of the provisions of § 110.21 by any person shall constitute a misdemeanor and, upon conviction, a violator shall be punished by a fine not to exceed \$50 or imprisoned for not more than 30 days.

(2) Each and every violation of § 110.21 shall constitute a separate and distinct offense.

(Prior Code, § J-VII-5) (Ord. passed 10-10-2015)

§ 112.99

Violation of any of the provisions of this chapter by any person shall ~~constitute a misdemeanor and, upon conviction a violator shall be punished by a fine not to exceed \$50 \$500, or imprisoned for not more than 30 days.~~ Each and every violation shall constitute a separate and distinct offense. Each day any provision of this chapter is in violation shall be a separate and distinct offense subject to the above penalty.

(Prior Code, § J-III-9)

§ 115.99

The violation of any provision of this chapter shall be a ~~misdemeanor~~ punishable by a fine not to exceed \$50 \$500, ~~and imprisonment of up to 30 days.~~ The existence of this penalty is exclusive of civil remedies for enforcement as otherwise provided by law. Each day any provision of this chapter is in violation shall be a separate and distinct offense subject to the above penalty.

(Prior Code, § O-I-14(D))

§ 116.99

The violation of any provision of this chapter shall be a ~~misdemeanor~~ punishable by a fine not to exceed ~~\$50~~ \$500. ~~and imprisonment of up to 30 days.~~ The existence of this penalty is in addition to any and all provisions for permit revocation as detailed herein. Each day any provision of this chapter is in violation shall be a separate and distinct offense subject to the above penalty

(Ord. passed 4-14-2015)

§ 153.002

HOME, CUSTOMARY OCCUPATION. A customary home occupation is an occupation or profession which is conducted entirely within a residential dwelling provided:

(1) The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling or adversely affect the character of the district of which it is a part.

(2) Use of the dwelling for this purpose shall be limited to 25% of one floor of the principal building.

(3) The home occupation shall be confined entirely to the principal building, and no accessory building or outside storage shall be used in connection with the home occupation.

(4) Employment shall be limited to members of the family and one employee must reside in the dwelling. In no case shall more than two members of the family be engaged in home occupation.

(5) No internal or external addition, alteration or remodeling of the dwelling is permitted in connection with the home occupation.

(6) Chemical, mechanical, or electrical activities that creates odors, light emission, noises, or interference in radio or television reception detectable outside of the dwelling shall be prohibited.

(7) No display of products shall be visible from the street, and only articles made on the premises may be sold;

(8) Instruction in music, dancing and similar subjects shall be limited to two students at a time.

(9) Only vehicles used primarily as passenger vehicles (i.e., passenger automobiles, passenger vans and passenger pick-up trucks) shall be permitted in connection with the customary home occupation. No more than two vehicles shall be used in conjunction with the customary home occupation. No on-street parking shall be allowed. Parking in association with the customary home occupation shall only take place in the driveway, carport or garage.

(10) The activity conducted as a home occupation shall be limited to the hours between 8:30 a.m. and 8:30 p.m.

(11) One sign may be used to identify the customary home occupation. Such sign shall not exceed one and one-half square feet in area. No such sign shall be illuminated. Signs are also permitted on vehicles associated with the customary home occupation (also see division (9)).

(12) The following uses are permitted as customary home occupation:

- (a) Accountant.
- (b) Appraiser.
- (c) Architect.
- (d) Attorney.
- (e) Beauty salon, barber shop. Limited to two chairs; all parking provided off-street and must meet respective state Board's requirements.
- (f) Bookkeeper.
- (g) Broker or agent: real estate, insurance, etc.
- (h) Clock/watch repair.
- (i) Commission merchant (Craig's list, Ebay, One Man's Junk, etc.). Mailing address and office only; takes order only; direct shipment factory to customers only; no stock in trade permitted.
- (j) Computer and data processing.
- (k) Contractor's office. Employees may not report in person to contractor's home for work assignments or to do work therein connected with the contracting business. No storage of supplies or equipment permitted.
- (l) Consultant (financial, marketing, business, etc.).
- (m) Dance studio.
- (n) Detective.
- (o) Drafting service, blueprint. No reproduction equipment permitted.
- (p) Dressmaker, tailor, alterations. No manufacture for stock in trade. No cleaning dyeing, or pressing by mechanically operated equipment.
- (q) Engineer.
- (r) Fine arts studio. Creation of individual works of art only; no production works.
- (s) Insurance agent.
- (t) Interior decorator. Office and mailing address only; studio not permitted.
- (u) Janitorial service office. Employees not to report in person to home for work assignments.

- (v) Landscape garden office. Employees not to report in person to home for work assignments. No storage of supplies or equipment for the landscape business permitted.
- (w) Mail order business. Office and mailing address only; take orders only direct shipment from the factory to customers only; no stock in trade permitted in the residence.
- (x) Music recording studio. No sound audible from outside the residence is allowed.
- (y) Music instruction or tutoring voice or instrument. No more than two students at one time.
- (z) Photography studio.
- (aa) Professional planner (weddings, special events, held off-site only).
- (bb) Tax Preparation, CPA, Financial advisor/investor.
- (cc) Travel agent.
- (dd) Tutoring and classroom instructions, craft related (knitting, crocheting, jewelry making, etc.), limited to five persons per class.

(13) The Development Services Director shall have the authority to allow a customary home occupation that is not listed above, provided the Director determines that the proposed use will be in harmony with all existing and potential nearby residential uses and meets all the criteria associated with the customary home occupation listed herein.

(14) A special permit issued by the Development Services Director is required for the conduct of any home occupation. The fee for such special permit shall be \$50. A special permit for a home occupation is not transferable. A new permit must be applied by each applicant and shall be subject to a new permit fee of \$50.

(15) *Abatement.* When any home occupation results in an undesirable condition interfering with the general welfare of the surrounding residential area, said home occupation may be terminated and the special permit revoked.

(16) According to Town of Dallas Code § 10.99, General Penalty, any person, firm or corporation violating any of the provisions of any section or division of this code of ordinances for which no other penalty is provided, or failing or neglecting or refusing to comply with same, shall, ~~upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed \$50 \$500 or imprisonment not to exceed 30 days,~~ and each day that any of the provisions of this code of ordinances are violated shall constitute a separate offense.

Changes to Update Fines

§ 90.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) Failure to comply with the provisions of § 90.02 may result in the revocation of a beekeeping permit in addition to the imposition of prescribed civil penalties.

(2) Violations of any of the provisions of § 90.02 shall subject the offender to a civil penalty in the amount of ~~\$50~~ \$150. In the event there is more than one violation in any 30-day period, then the civil penalties shall be increased for each additional violation over one during the period as follows: ~~\$100~~ \$300 for a second offense; ~~\$150~~ \$500 for a third and subsequent offenses during a 30-day period. The date of the initial violation shall serve as the beginning for the initial 30- day period. Each day any provision of this chapter is in violation shall be a separate and distinct offense subject to the above penalty. The Town Attorney or designee may initiate litigation on behalf of the town to collect any unpaid citations including but not limited to interest, court costs and attorney's fees. Appeals of any citation issued under § 90.02 may be appealed in writing to the Town Manager or designee within 72 hours of the citation.

(3) Section 90.02 may also be enforced through equitable remedies, including but not limited to nuisance abatement procedures as issued by a court of competent jurisdiction.

(Ord. passed 7-9-2013)

Beekeeping Updates

§ 90.02 URBAN BEEKEEPING.

(A) *Purpose.* The purpose of this section is to encourage persons who keep bees to properly maintain hives, comply with state regulatory requirements and be considerate of neighbors.

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

APIARY. An area where bees, comb, hives or colonies are kept, located or found.

APIARY DENSITY. The density of an apiary which is determined by the colony's foraging range and the coverage area it encompasses (it is the amount of foraging that determines the success of the colony, not the size of the lot on which the apiary is located).

APIARY INSPECTOR. The person designated by the State Department of Agriculture to inspect all bees and hives within the state.

BEES. Eggs, larvae, developing bees and adult bees.

BEEKEEPER. A person who keeps and raises bees and harvests honey.

CERTIFICATE OF INSPECTION. A document from State Department of Agriculture Apiary Inspector certifying the health of the bees and approval of any equipment to keep bees.

FORAGING. A normal honeybee behavior which consists of bees actively flying to collect nectar, pollen, water, or propolis (a compound created by the bees to use as a coating to build their hives).

FORAGING BEHAVIOR FOR HONEYBEES. An average forage area is between a 2.5 to five mile radius from their hive.

FRONT YARD.

(a) The area extending across the full length of a lot from side lot line to side lot line and lying between the abutting street right-of-way or easement line and the building line; or

(b) In the case of a lot abutting more than one street, the **FRONT YARD** shall include all areas extending across the full length of a lot from property line to property line and lying between the abutting street right-of-way or easement and building line.

HEALTH CERTIFICATE. The periodic health inspection conducted by the State Department of Agriculture.

HIVES. The wooden frame boxes used to house bees.

PERMIT. A one-time permit fee of \$50 for the keeping of more than five hives.

(C) *Urban beekeeping requirements.*

(1) No more than ~~50~~ 5 hives may be permitted/allowed on any parcel unless the parcel is larger than ~~one-acre~~ two acres in size. No more than 100 hives may be placed on any single parcel regardless of size.

(2) The area wherein the hive(s) are located shall be screened from view by either an opaque (“non see-through”) fence of at least four feet in height, and/or an equivalent screening of vegetation. If a vegetative screen is used, such vegetation shall be installed at a minimal height of four feet upon planting. In no case shall a hive be visible from a public street or sidewalk.

(3) No hive shall be located in the front yard (between the front of the house and the street). All hives shall be located a minimum of ~~five~~ ten feet from side and rear yard property lines. In the event a side or rear yard abuts vacant and undeveloped property, the setback may be reduced to ~~zero~~ five feet, as long as there is written consent expressly given from the adjacent property owner. ~~Should any complaint arise from the adjacent property owner.~~ Should any complaint arise from the adjacent property owner who originally gave written consent, the setback will revert to the ~~five-foot~~ ten feet minimum setback requirement.

(4) All beekeeping equipment and hives must be maintained in good condition.

(5) All hives shall be placed at ground level or securely attached to an anchor or stand. If the hive is securely attached to an anchor or stand, the town may permit the anchor or stand to be permanently attached to a roof surface.

(6) A clean water source must be provided on the same property the hive is located.

(7) When placed less than twenty (20) feet from the property line, all hives must be surrounded by a fence 6 feet in height equipped with screen or netting designed as a flyover barrier.

(D) *Permitting and inspection requirements for urban beekeeping.*

(1) It shall be unlawful for any person within the town limits of Dallas to keep bees (more than five hives) without first obtaining a permit from the town.

(2) *Permit.* A one-time permit fee of \$50 for the keeping of more than five hives on a single property.

(E) *Sale of honey and beeswax-related products on site.* The sale of honey and related products on site shall be considered to be in the same category and definition as “sales of agricultural products grown on-site” and shall follow the following regulations:

(1) Sales may occur on any lot upon which hives are kept, regardless of the underlying zoning district.

(2) Such sales shall be allowed during daylight hours only.

(3) Sales at ~~an~~ one site are allowed a ~~mzximum~~ maximum of 180 consecutive days during any calendar year.

(4) One yard sign shall be allowed, up to a maximum size of 24 inches by 24 inches. Sign needs to be placed on private property, outside of the right-of-way.

(Prior Code, § K-III-2) (Ord. passed 7-9-2013; Am. Ord. passed 9-27-2016; Am. Ord. passed 1-10-2017) Penalty, see § 90.99

NCGS:

§ 160D-906. Bee hives.

Restrictions on bee hives in local development regulations shall be consistent with the limitations of G.S. 106-645. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 106-645. Limitations on local government regulation of hives.

(a) Notwithstanding Article 6 of Chapter 153A of the General Statutes, no county shall adopt or continue in effect any ordinance or resolution that prohibits any person or entity from owning or possessing five or fewer hives.

(b) Notwithstanding Article 8 of Chapter 160A of the General Statutes, a city may adopt an ordinance to regulate hives in accordance with this subsection. The city shall comply with all of the following:

- (1) Any ordinance shall permit up to five hives on a single parcel within the land use planning jurisdiction of the city.
- (2) Any ordinance shall require that the hive be placed at ground level or securely attached to an anchor or stand. If the hive is securely attached to an anchor or stand, the city may permit the anchor or stand to be permanently attached to a roof surface.
- (3) Any ordinance may include regulation of the placement of the hive on the parcel, including setbacks from the property line and from other hives.
- (4) Any ordinance may require removal of the hive if the owner no longer maintains the hive or if removal is necessary to protect the health, safety, and welfare of the public.

(c) For purposes of this section, the term "hive" has the same definition as in G.S. 106-635(15). (2015-246, s. 8.)
