

CHAPTER 30: BOARD OF COMMISSIONERS

Section

General Provisions

- 30.01 Mayor and Board of Commissioners; powers and duties
- 30.02 Selection and duties of Mayor Pro Tem
- 30.03 Board's power over employees
- 30.04 Committees
- 30.05 Compensation

Meetings; Rules of Procedure

- 30.15 Regular meetings
- 30.16 Special meetings
- 30.17 Adjourned meetings
- 30.18 Order of business
- 30.19 Rules of procedure

Ordinances and Resolutions

- 30.30 Procedure; publication
- 30.31 Effective date
- 30.32 Official copies
- 30.33 Ordinance book
- 30.34 Ordinances; additions to code

GENERAL PROVISIONS

§ 30.01 MAYOR AND BOARD OF COMMISSIONERS; POWERS AND DUTIES.

(A) The Mayor and Board of Commissioners shall be charged with the general government and administration of the affairs of the town. ('79 Code, § 2-1-1)

(B) The powers and duties of the Board shall be as set out in the general statutes of the state, the town charter, and the ordinances of the town. ('79 Code, § 2-1-2)

(C) The Mayor shall be the chief executive officer of the town, and as such, shall perform the following duties:

- (1) Keep himself informed as to the town's business;
- (2) Preside over the meetings of the Board of Commissioners;
- (3) Sign all contracts, ordinances, resolutions, franchises, and all other documents as authorized by the Board;
- (4) Appoint all committees and outline their duties, under the general direction of the Board;
- (5) Make recommendations to the Board concerning the affairs of the town, as he deems necessary;
- (6) Represent the town at ceremonies and other official occasions; and
- (7) Perform other duties as authorized by the general statutes, the city charter and this code.

('79 Code, § 2-1-3)

Statutory reference:

Board to organize town government, see G.S. § 160A-146

Duties of mayor, see G.S. § 160A-69

§ 30.02 SELECTION AND DUTIES OF MAYOR PRO TEM.

At the first meeting after their election, the Board of Commissioners shall select one of their number to act as Mayor Pro Tem. The Mayor Pro Tem shall have no fixed term of office, but as such, shall perform all the duties of the Mayor in the Mayor's absence or disability.

('79 Code, § 2-1-4)

Statutory reference:

Mayor pro tem, see G.S. § 160A-70

§ 30.03 BOARD'S POWER OVER EMPLOYEES.

The Board shall have the authority to generally organize and supervise the employees of the town, including the power to:

(A) *Prescribe rules.* Prescribe rules and regulations as it shall deem necessary or expedient for the conduct of administrative employees subject to its authority and shall have the power to revoke, suspend or amend any rule or regulation;

(B) *Investigate.* Either by itself or any officer or person designated for the purpose by it, investigate and examine or inquire into the affairs or operation of any department, division, or employee; and shall have the power to employ consultants and professional counsel to aid in investigations, examinations, or inquiries;

(C) *Overrule officials.* Set aside any action taken by a town administrative official and may supersede him in the functions of his office;

(D) *Delegate duties.* Direct any official, department, division or employee to perform the work for any other official, department, division or employee;

(E) *Provide for administrative committees.* Designate committees as it shall find necessary for the proper consideration of administrative problems. The committees shall meet at the request of the Board and shall make recommendations on matters referred to them as they shall find necessary for the best interest of the town; and

(F) *Summon employees.* Require any employee of the town to appear before and report to the Board at any meeting.

('79 Code, § 2-1-5)

Statutory reference:

Authority of Board to adopt personnel regulations, see G.S. § 160A-164

Authority to conduct investigations, see G.S. § 160A-80

§ 30.04 COMMITTEES.

(A) Committees shall, unless otherwise ordered, be appointed by the Mayor. All reports of committees shall be in writing, and committee members shall receive such compensation for extra and special service as the Board may designate. ('79 Code, § 2-1-6)

(B) Each committee shall be held responsible for its respective department or the special object for which it is appointed, and shall make such recommendations to the Mayor and the Board as it deems advisable. ('79 Code, § 2-1-7)

§ 30.05 COMPENSATION.

The compensation of the Mayor and Board members shall be as provided in the annual budget ordinance, and as the same may be amended from time to time.

('79 Code, § 2-1-8)

Statutory reference:

Compensation of Mayor and Board, see G.S. § 160A-64

MEETINGS; RULES OF PROCEDURE**§ 30.15 REGULAR MEETINGS.**

The regular meetings of the Board shall be held on the second Monday of each month at 7:30 p.m. at the town hall, unless otherwise designated by the Board. Every member of the Board and officer shall attend all meetings of the Board, unless excused.

('79 Code, § 2-1-21)

§ 30.16 SPECIAL MEETINGS.

Special meetings of the Board may be held according to the procedures set out in the applicable general statutes.

('79 Code, § 2-1-22)

Statutory reference:

Special meetings, see G.S. § 160A-71

§ 30.17 ADJOURNED MEETINGS.

Any meeting of the Board may be continued or adjourned from day to day, or for more than one day, but no adjournment shall be for a longer period than until the next regular meeting thereafter.

('79 Code, § 2-1-23)

§ 30.18 ORDER OF BUSINESS.

(A) At the hour appointed for the meeting of the Board, the Mayor shall take the chair and direct a call of the members by the Clerk, who shall note the absentees. If a quorum is not present, the Mayor shall send for the absentees, and upon the appearance of a quorum shall call to order and proceed with the order of business. If a quorum fails to attend, the meeting shall stand adjourned to a time agreed on by a majority of the members present. The Mayor may, when present, substitute any member of the Board to perform the duties of the chair, but substitution shall not extend beyond adjournment, except by special consent of the Board.

(B) Unless the Board agrees in advance otherwise, the business of the Board shall be taken up for consideration and disposition at regular meetings in the following order:

- (1) Call to order;
- (2) Reading or disposition of minutes of the previous meeting;
- (3) Reports of boards and standing committees;

- (4) Reports of special committees;
- (5) Unfinished business;
- (6) New business;
- (7) Announcements; and
- (8) Adjournment.

(C) If the Board directs any matter to be the special business of a future meeting, the matter shall have precedence over all other business at that meeting.

('79 Code, § 2-1-24)

Statutory reference:

Quorum, see G.S. § 160A-74

Voting, see G.S. § 160A-75

§ 30.19 RULES OF PROCEDURE.

(A) *Agenda.* All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the Board should be delivered or submitted to the Clerk prior to the meeting.

(B) *Rules of debate and decorum.*

(1) *Manner of speaking.* Every member desiring to speak shall address the chair and upon recognition by the Mayor shall confine himself to the question under debate, avoiding all personalities and indecorous language.

(2) *Interrupting the speaker.* A member, once recognized, shall not be interrupted when speaking, unless it is to call him to order or as otherwise provided under applicable rules of parliamentary procedure. If a member, while speaking, is called to order, he shall cease speaking until the question of order is determined and, if in order, he shall be permitted to proceed.

(3) *Addressing the Board.* Any person desiring to address the Board shall first secure the permission of the Mayor. Any interested parties or their authorized representatives may address the Board on matters listed on the agenda of the Board. After a motion is before the Board, no person shall address the Board without first securing the permission of the Board to do so.

(4) *Manner of addressing the Board; time limit.* Every person addressing the Board shall give his name and address for the records, and unless special time is granted by the Board, shall limit his remarks to ten minutes. All remarks shall be addressed to the Board as a body and not to any member thereof. No person, other than Board members and the person having the floor, shall be permitted to enter into any discussion either directly or through a member of the Board. No question shall be asked a member except through the Mayor.

(5) *Request to have statement abstracted.* A member may request from the Mayor the privilege of having an abstract of his statement on any subject under consideration by the Board entered in the minutes.

(6) *Request to record synopsis of discussion in the minutes.* The Clerk may be directed by the Mayor, with consent of the Board, to enter in the minutes a synopsis of the discussion on any question coming before the Board.

(7) *Voting; individual ballots.* All elections by the Board shall be made by individual ballot if required by any two members present.

(8) *Questions of order.* All questions of order shall be decided by the Mayor without debate, subject to an appeal to the Board.

(9) *Robert's Rules of Order.* When any point of procedure shall arise, the latest revised edition of Robert's Rules of Order shall determine the question of procedure.
('79 Code, § 2-1-25)

ORDINANCES AND RESOLUTIONS

§ 30.30 PROCEDURE; PUBLICATION.

Every ordinance amending or repealing any ordinance and every new ordinance shall be proposed in writing and shall be approved as to form by the Town Attorney. Ordinances shall have ordinance numbers and section captions.

('79 Code, § 2-1-41)

§ 30.31 EFFECTIVE DATE.

All ordinances shall be effective after the ratification thereof except ordinances specifying some other effective date or ordinances required by state law to be effective only after having met specific date requirements.

('79 Code, § 2-1-42)

§ 30.32 OFFICIAL COPIES.

A true copy of an ordinance, which has been duly enacted by the Board, signed by the Mayor, and attested to by the Clerk shall be known as an official copy of any ordinance.

('79 Code, § 2-1-43)

Statutory reference:

Pleading and proving ordinances, see G.S. 160A-79

§ 30.33 ORDINANCE BOOK.

The Clerk shall file a true copy of each ordinance, until it is codified in this code, in an ordinance book separate and apart from the Board's minute book. The ordinance book shall be appropriately indexed and maintained for public inspection in the office of the Clerk.

('79 Code, § 2-1-44)

Statutory reference:

Ordinance book, see G.S. § 160A-78

§ 30.34 ORDINANCES; ADDITIONS TO CODE.

Any ordinance which is proposed to add to the code a new chapter, subchapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter, part, subchapter or section.

('79 Code, § 2-1-45)

CHAPTER 31: TOWN OFFICIALS AND EMPLOYEES

Section

General Provisions

- 31.01 Consolidation of offices
- 31.02 Employees serve at pleasure of Board
- 31.03 Conflict of interests

Town Officers

- 31.15 Town Clerk
- 31.16 Town Attorney
- 31.17 Tax Collector
- 31.18 Finance Officer

GENERAL PROVISIONS

§ 31.01 CONSOLIDATION OF OFFICES.

Except as otherwise provided by law, the Board may in its discretion consolidate any two or more offices and assign the duties of such offices to one or more persons.
('79 Code, § 2-2-11)

§ 31.02 EMPLOYEES SERVE AT PLEASURE OF BOARD.

All employees elected or appointed by the Board of Commissioners shall hold their office at the pleasure of the Board and may be removed at any time by the Board.
('79 Code, § 2-2-12)

§ 31.03 CONFLICT OF INTERESTS.

No member of the Board shall be pecuniarily interested, directly or indirectly, in any contract made or entered into by the Board, nor in any matter where the rights or liabilities of the town are, or may be, involved. ('79 Code, § 2-2-13)

TOWN OFFICERS**§ 31.15 TOWN CLERK.**

The Board shall appoint a Town Clerk. It shall be the duty of the Clerk to:

- (A) Act as secretary to the Board;
- (B) Keep a true record of all the proceedings of the Board;
- (C) Keep the original of all ordinances in a book especially provided for that purpose;
- (D) Act as custodian for all the books, papers records and journals of the Board; and
- (E) Perform other duties as may be required of him by law or by the Board.

('79 Code, § 2-2-1)

Cross-reference:

Duties of Clerk as purchasing agent, see § 34.02

Statutory reference:

Duties of Clerk, see G.S. § 160A-171

Minutes, see G.S. § 160A-72

§ 31.16 TOWN ATTORNEY.

The Board shall appoint a Town Attorney whose duties shall be to:

- (A) Prosecute or defend any and all suits or actions at law or equity to which the town may be a party, or in which it may be interested, or which may be brought against, or by, any officer of the town, or in the capacity of the person as an officer of the town;
- (B) See to the full enforcement of all judgments or decrees rendered or entered in favor of the town;
- (C) See to the completion of all special assessment proceedings and condemnation proceedings;
- (D) Draft or review any contract, lease or other document or instrument to which the town may be a party, and approve all ordinances and resolutions of the Board as to form;
- (E) At the request of the Board, draft ordinances covering any subjects within the power of the town;
- (F) Attend meetings of the Board upon request; and

(G) Perform any other duties required of him by G.S. § 160A-173 and other laws and ordinances.
(’79 Code, § 2-2-2)

Statutory reference:

Duties of attorney, see G.S. § 160A-173

§ 31.17 TAX COLLECTOR.

The Board shall provide for the appointment of a Tax Collector, whose duties shall be to:

(A) Collect all taxes and assessments due to the town;

(B) Make an accounting to the Finance Officer at the end of each month;

(C) Pay over to the Finance Officer such money as is collected by him for the account of each separate fund according to the tax levy;

(D) Deliver a list of all unpaid taxes with the reason therefor as ascertainable to the Board;

(E) Supply the Mayor and Board with any information as they may require of him relative to the performance of his duties;

(F) Make periodic reports to the Board listing therein all funds collected by him;

(G) Act as registrar of motor vehicles; and

(H) Perform other duties required by law, or as the Board may direct.

(’79 Code, § 2-2-3)

Statutory reference:

Duties of tax collector, see G.S. 105-349, 350

§ 31.18 FINANCE OFFICER.

The Board shall provide for the appointment of a Finance Officer, whose duties shall be to:

(A) Keep the books and accounts of the town;

(B) Receive and disburse all monies of the town as required by state law;

(C) Countersign and preaudit all checks, drafts, contracts, purchase orders, or other documents obligating town funds;

(D) Report to the Board concerning the finances of the town, as they may require;

(E) Maintain all records of the bonded debt of the town and maintain sinking funds;

(F) Supervise the investment of idle funds; and

(G) Perform other duties assigned by the general statutes, the town charter, or by the Board.
(’79 Code, § 2-2-4)

Statutory reference:

Duties of finance officer, see G.S. § 159-25

Fiscal control, see G.S. § 159-7 et seq.

CHAPTER 32: DEPARTMENTS, BOARDS AND COMMISSIONS

Section

General Provisions

- 32.01 Departments enumerated

Police Department

- 32.10 Police Department established; composition
- 32.11 Duties of police officers
- 32.12 Hiring and discharge of personnel
- 32.13 Conditions of employment; requirements
- 32.14 Chief of Police; powers and duties
- 32.15 Mutual aid assistance

Fire Department

- 32.25 Department established
- 32.26 Appointment of officers; composition
- 32.27 Duties and powers of Chief
- 32.28 Membership of Department
- 32.29 Apparatus and equipment
- 32.30 Rules and regulations
- 32.31 Enforcement

Planning Board

- 32.40 Establishment
- 32.41 Composition; vacancies
- 32.42 Organization
- 32.43 Expenditures; incurring debt; donations
- 32.44 Powers and duties

GENERAL PROVISIONS**§ 32.01 DEPARTMENTS ENUMERATED.**

The administrative organization of the town shall be divided into the following departments:

- (A) Police Department;
- (B) Fire Department;
- (C) Street Department;
- (D) Sanitation Department;
- (E) Water and Sewer Department; and
- (F) Recreation Department.

('79 Code, § 2-3-1)

POLICE DEPARTMENT**§ 32.10 POLICE DEPARTMENT ESTABLISHED; COMPOSITION.**

(A) The Town Police Department is hereby created subject to the terms, authority and conditions set out herein. ('79 Code, § 3-1-1)

(B) The Police Department of the town shall consist of a Chief of Police and officers, patrolmen and policemen of designated grades as the Board deems necessary. ('79 Code, § 3-1-2)

Statutory reference:

Municipal law enforcement, see G.S. § 160A-281 et seq.

§ 32.11 DUTIES OF POLICE OFFICERS.

(A) The Chief of Police and the members of the Police Department shall have the duty of enforcing all the ordinances of the town and the laws of this state within the town, and other duties as may be prescribed by ordinance.

(B) It shall be the duty of each member of the Police Department, upon information furnished him, or upon his knowledge of any violation of the ordinances of the town or of the laws of this state, to secure proper warrants for the arrest and trial of any and all offenders against any ordinances or laws. ('79 Code, § 3-1-3)

§ 32.12 HIRING AND DISCHARGE OF PERSONNEL.

The Board shall have the duty of hiring persons as may be necessary to man the Police Department and to provide the town with adequate police protection, together with the duty of discharging such members.

('79 Code, § 3-1-4)

§ 32.13 CONDITIONS OF EMPLOYMENT; REQUIREMENTS.**(A) Conditions.**

(1) Members of the Police Department shall be appointed by the Board after due examination by the Board, and based upon the results of the examination.

(2) An appointee shall serve six months' probation.
('79 Code, § 3-1-6)

(B) Requirements. Every person appointed as a law enforcement officer shall:

- (1) Be a citizen of the United States;
- (2) Be at least 20 years of age;
- (3) Be of good moral character;
- (4) Be fingerprinted and a search made of local, state and federal fingerprint files;
- (5) Not have been convicted of a felony or an offense involving moral turpitude;
- (6) Have a high school diploma or its equivalent;
- (7) Pass an examination conducted by a physician employed by the town;
- (8) Be interviewed and approved by the Board; and
- (9) Be certified in accordance with state law.

('79 Code, § 3-1-7)

Statutory reference:

Local law enforcement officers to be certified by the state Criminal Justice Education and Training Standards Commission, see G.S. §§ 17C-1 et seq.

§ 32.14 CHIEF OF POLICE; POWERS AND DUTIES.

(A) *General supervision of the Board.* The Chief of Police, subject to the general supervision of the Board, is held responsible for the discipline, good order, and proper conduct of the Department. ('79 Code, § 3-1-5)

(B) *Specific duties.*

(1) The Police Chief shall command the Department under his order, and is responsible for its discipline and efficiency. Further, he shall recommend to the Board the reforms and changes in the Police Department which practical experience shows should be instituted. Periodically, the Chief may be required to submit a statement of conduct of the affairs of the Department, and shall include therein any suggestions for the improvement in the service or personnel of the Department.

(2) Additional, specific functions of the Chief of Police are:

(a) To issue to the Department under his command such orders and directives as may be necessary to preserve the public peace, prevent crime, arrest offenders, and to protect public and private property and persons in the town;

(b) To enforce the laws, ordinances, police regulations and executive orders applicable to his jurisdiction;

(c) To suspend from duty any members of the Department for incompetence, neglect of duty, immorality, drunkenness, drinking intoxicants when on duty, or who shall be found unfit for duty when called on emergency service, or who fail to obey orders given by proper authority, and in addition for any just or reasonable cause in the judgement of the Board; and

(d) To require the proper submission and handling of the necessary and required reports. ('79 Code, § 3-1-8)

§ 32.15 MUTUAL AID ASSISTANCE.

(A) The Chief of Police is hereby authorized to enter into mutual assistance arrangements with other municipal and county enforcement agencies provided that the head of the requesting law enforcement agency requests assistance in writing.

(B) The Chief of Police is hereby authorized to permit officers of the Police Department to work temporarily with officers of the requesting agencies including in an undercover capacity, and, to this extent may lend equipment and supplies.

(C) While working with the requesting agency, a police officer shall have the same jurisdiction, powers, rights, privileges and immunities as the officers of the requesting agency.

CHAPTER 36: TOWN EMERGENCIES

Section

- 36.01 State of emergency
- 36.02 Authority of Mayor
- 36.03 Restrictions
- 36.04 Subsequent proclamations
- 36.05 Violation of restrictions prohibited

Statutory reference:

Authority of mayor to declare an emergency, see G.S. § 14-288.12

§ 36.01 STATE OF EMERGENCY.

A state of emergency shall be deemed to exist whenever, during times of great public crisis, disaster, rioting, catastrophe, or similar public emergency, for any reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives or property. ('79 Code, § 3-3-1(a))

§ 36.02 AUTHORITY OF MAYOR.

(A) In the event of an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the town, or threatening damage to or destruction of property, the Mayor is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of a state of emergency, and, in order to more effectively protect the lives and property of people within the town, to place in effect any or all of the restrictions hereinafter authorized. ('79 Code, § 3-3-1(b))

(B) The Mayor is hereby authorized and empowered to limit by proclamation, the application of all or any part of the restrictions to any area specifically designated or described within the corporate limits of the town, and to specific hours of the day or night; and to exempt from all or any part of the restrictions law enforcement officers, firemen and other public employees, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel whether state or federal; on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of the people within the town. ('79 Code, § 3-3-1(c))

§ 36.03 RESTRICTIONS.

(A) The Mayor shall proclaim the end of the state of emergency or all or any part of the restrictions imposed as soon as circumstances warrant or when directed to do so by the Board. (Ord. passed 7-11-94(d))

(B) During the existence of a proclaimed state of emergency, the Mayor may impose by proclamation any or all of the following restrictions:

(1) Prohibit or regulate the possession off one's own premises of explosives, firearms, ammunition, or dangerous weapons of any kind, and prohibit the purchase, sale, transfer or other disposition thereof;

(2) Prohibit or regulate the buying or selling of beer, wine, or intoxicating beverages of any kind, and their possession or consumption off one's own premises;

(3) Prohibit or regulate any demonstration, parade, march, vigil, or participation therein from taking place on any of the public ways or upon any public property;

(4) Prohibit or regulate the sale of gasoline, kerosene, naphtha, or any other explosive or inflammable fluids or substances;

(5) Prohibit or regulate travel upon any public street, alley, or roadway or upon any other public property, except by those in search of medical assistance, food, or other commodity or service necessary to sustain the well-being of themselves or their families or other member thereof;

(6) Prohibit or regulate the participation in or carrying on of any business activity, and prohibit and regulate the keeping open of places of business, places of entertainment, and any other places of public assembly.

(Ord. passed 7-11-94(e))

§ 36.04 SUBSEQUENT PROCLAMATIONS.

Any proclamation may be extended, altered, or repealed in any particular during the continued or threatened existence of a state of emergency by the issuance of a subsequent proclamation.

(Ord. passed 7-11-94(f))

§ 36.05 VIOLATION OF RESTRICTIONS PROHIBITED.

During the existence of a proclaimed state of emergency, it shall be unlawful for any person to violate any provision of any restriction imposed by any proclamation authorized by this chapter.

(Ord. passed 7-11-94(g)) Penalty, see § 10.99

(B) Applications for a special events permit shall be filed with the Town Clerk not later than 15 before the proposed date of the event. The permit shall be granted or denied with a reasonable time after the filing of the application. The Mayor shall provide for the holding of an informal hearing for any person whose application for a permit has been denied, provided however, that such person requests such informal hearing not later than three days after such denial.

(C) Any person aggrieved by a decision of the Mayor may appeal such decision to the Board of Commissioners by giving notice for such appeal in writing to the Town Clerk on a form prescribed by the town not later than three days after such decision. The appeal shall be set for a hearing before the Board of Commissioners at the next regular meeting of the Board. The Town Clerk shall notify the person filing the appeal in writing of the time and place of the hearing. The Board may affirm, modify, or reverse the decision of the Mayor.

(Ord. passed 7-11-94)

§ 35.17 REVOCATION OF PERMIT.

(A) The Town Clerk shall revoke any permit granted for a special event for the following causes:

- (1) The violation by any participant of § 35.16 of this section.
- (2) The failure to comply with the terms of the permit.

(B) The provisions of this section shall not apply to any event or activity conducted under the sponsorship of the town.

(Ord. passed 7-11-94)

§ 35.18 INTERFERENCE PROHIBITED.

It shall be unlawful for any person to interfere with the use by any person or organization holding a permit issued by the town for a special event pursuant to the provisions of this subchapter.

(Ord. passed 7-11-94) Penalty, see § 10.99

(D) The Superintendent of Public Utilities shall, on or before February 1, report in writing to the Board of Commissioners on any property disposed of under these provisions from July 1 through December 31 of the previous year, and shall, on or before August 1, report in writing to the Board of Commissioners on any property disposed of under these provisions from January 1 through June 30 of that year. The written report shall generally describe the property sold or exchanged, to when it was sold, or with when exchanged, and the amount of money or other consideration received for each sale or exchange since the last such report was submitted.

(Ord. passed 3-10-86)

§ 35.04 MUNICIPAL RECORDS RETENTION AND DISPOSITION SCHEDULE.

The records retention and disposition schedule and retention periods governing the records series listed herein are hereby approved. In accordance with the provisions of G.S. Chapters 121 and 132, the records do not and will not further use or value for official business, research, or reference purposes after the respective retention periods specified herein are authorized to be destroyed or otherwise disposed of by the agency or official having custody of them without further reference or approval. These records may not be destroyed prior to the time periods stated, however, for sufficient reason they may be retained for longer periods.

(Ord. passed 9-8-86)

§ 35.05 HOURS OF RECREATION PARK.

(A) It shall be unlawful for any person to enter or to remain within the boundaries of the town's Recreation Park on any day of the week between the hours of 11:00 p.m. and 7:00 a.m.

(B) Any person violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$50 or by imprisonment not exceeding 30 days.

(Res. passed 8-10-81)

USE OF TOWN PROPERTY FOR SPECIAL EVENTS

§ 35.15 PURPOSE.

The Town Clerk is authorized to issue permits for the use of town-owned property for the following purposes:

(A) Outdoor entertainment, including but not limited to outdoor musical concerts or performances;

(B) Sporting events;

(D) For each such building contract put out for bids under the separate specification or the single prime contract systems, notice of the contract shall be transmitted to minority businesses on the above list.

(E) For each such building contract put out for bids under the separate specification or single prime contract systems, documents related to the contract shall be available for inspection at a convenient and accessible location of which minority businesses shall receive notice.

(F) For each such building contract put out for bids under the separate specification or single prime contract systems, the contact person designated pursuant to division (C) of this section shall hold a pre-bid conference to orient contractors and subcontractors to the policy expressed in this section as well as bid procedures and regulations. Minority businesses on the list obtained and maintained as provided herein shall be notified of and invited to these pre-bid conferences.

(G) For each such building contract put out for bids under the separate specification or single prime contract system, published notice of the contract shall include a summary of this section.

(H) For any such building contract put out for bids under the separate specification contract system, the contact person designated herein shall maintain records with respect to:

(1) Those contractors or subcontractors notified of the project and the number of these contractors and subcontractors that are minority businesses as defined in G.S. § 143-128 appearing on the list of minority businesses maintained pursuant to division (B) of this section;

(2) Those contractors or subcontractors that bid or otherwise respond to notice of the project and the number of these that are on the maintained list of minority businesses;

(3) Those contractors or subcontractors awarded contracts as part of the project and the number and identity of those that are on the list of minority businesses; and

(4) The percentage of work on the project that is to be performed by minority businesses appearing on the list maintained pursuant to this section.

(I) For any such building contract put out for bids under the single prime contract system, the single prime contractor shall:

(1) Notify those minority businesses appearing on the list of minority businesses maintained pursuant to division (B) of the portion of the project which will be subcontracted by the single contractor and solicit bids from those minority businesses.

(2) Submit with his bids records with respect to:

(a) Those subcontractors notified of the project and of those elements of the project for which subcontractors will be let and the number of these subcontractors that are minority businesses as defined in G.S. § 143-128 appearing on the list of minority businesses maintained pursuant to division (B) of this section;

(b) Those subcontractors that bid or otherwise respond to notice of the project and the number of these that are on the maintained list of minority businesses;

(c) Those subcontractors awarded contracts as part of the project and the number and identity of those that are on the maintained list of minority businesses; and

(d) The percentage of work on the project that is to be performed by minority businesses appearing on, the list maintained pursuant to this section.

(J) These policies shall be a part of the request for proposals for any such contract, and noncompliance by any single prime bidder shall be grounds for declaring the bid non-responsive. (Ord. passed 6-11-90)

Cross-reference:

Purchasing procedures, see §§ 34.30 through 34.36

§ 35.03 DISPOSAL OF PERSONAL PROPERTY.

(A) The Superintendent of Public Utilities is hereby authorized, pursuant to G.S. § 160A-266(c), to dispose of any surplus personal property owned by the town, whenever he determines, in his discretion, that:

(1) The item or group of items has a fair market value of less than \$500;

(2) The property is no longer necessary for the conduct of public business; and

(3) Sound property management principles and financial considerations indicate that the interests of the town would best be served by disposing of the property.

(B) The Superintendent of Public Utilities may dispose of any such surplus personal property by any means which he judges reasonably calculated to yield the highest attainable sale price in money or other consideration, including but not limited to the methods of sale provided in G.S. Ch. 160A, Article 12. Such sale may be public or private, and with or without notice and minimum waiting period.

(C) The surplus property shall be sold to the party who tenders the highest offer, or exchanged for any property or services useful to the town if greater value may be obtained in that manner, and the Superintendent of Utilities is hereby authorized to execute and deliver any applicable title documents. If no offers are received within a reasonable time, the Superintendent of Public Utilities may retain the property, obtain any reasonably available salvage value, or cause it to be disposed of as waste material. No surplus property may be donated to any individual or organization except by resolution of the Board of Commissioners.

CHAPTER 35: TOWN POLICIES

Section

General Provisions

- 35.01 Town liability
- 35.02 Minority business development
- 35.03 Disposal of personal property
- 35.04 Municipal records retention and disposition schedule
- 35.05 Hours of Recreation Park

Use of Town Property for Special Events

- 35.15 Purpose
- 35.16 Conditions for issuance of permit
- 35.17 Revocation of permit
- 35.18 Interference prohibited

GENERAL PROVISIONS

§ 35.01 TOWN LIABILITY.

(A) As resolved by the Board of Commissioners of the town, it shall be the policy of the town, to pay defense costs, expenses, judgments, interest on judgments, deductibles on insurance policies and other related costs on behalf of its officers and employees against civil claims and judgments, and to satisfy same either through the purchase of insurance or otherwise, provided adoption of this section shall not be deemed an assumption of liability for payment claims or judgments in excess of any fund established by the Board for payment of claims or judgments in addition to any insurance coverage or any combination of such a fund and insurance coverage.

(B) Further, the town will not defend a claim or lawsuit or pay a claim or judgment when the officer or employee wilfully:

- (1) Acts or fails to act because of actual fraud, corruption or malice;
- (2) Acts or fails to act as a result of or at a time when his self-indulgence substantially impaired his judgment (as, for example, an officer or employee who causes damage or injury while intoxicated or under the influence of drugs while on the job);

(3) Acts or fails to act, except in emergencies or the existence of extenuating circumstances, directly contrary to instructions from his superior, or directly contrary to advice of the Town Attorney;

(4) Acts or fails to act in such manner as to constitute a criminal act (as, for example, misappropriation of property or funds);

(5) The Mayor or his designee shall determine whether or not a claim or suit filed against an officer or employee meets the requirements specified herein for providing a defence for such officer or employee. If the Mayor or his designee determines that a claim or suit does not meet the requirements specified herein, the affected officer or employee may appeal the determination to the Board of Commissioners. The Board shall afford the officer or employee a hearing on the matter and shall decide whether or not the claim or suit meets the requirements of this section;

(6) The terms "officer" and "employee" as used herein shall mean present or past Mayors and members of the Council, officers, employees or volunteers and present or past appointed members of town boards, agencies, committees and commissions who might hereafter have claims or judgments entered against them;

(7) The policies specified herein shall not be applicable unless notice of the claim or suit is given to the Board of Commissioners through the Mayor or Town Attorney prior to the time the claim is settled or civil suit is litigated and judgment is entered;

(8) This section shall not be interpreted in any way to relieve any insurance company of its obligation under any insurance policy to protect the interests of any insured under the policy, or to reduce or eliminate the rights of any officer or employee of the town against any other party. Further, except as expressly stated herein, this section is not to be interpreted as a waiver of any rights the town has against any party. Nor shall the adoption of this section be construed to waive the defense of governmental immunity.

(Ord. passed 3-12-90)

§ 35.02 MINORITY BUSINESS DEVELOPMENT.

(A) The town shall have a verifiable goal of 5% for participation by minority businesses in building construction contracts, awarded pursuant to G.S. § 143-128.

(B) The Town Clerk shall compile a list of minority businesses within the bidding area, using information obtained from the State Department of Economic and Community Development, Minority Business Development Agency or from other institutions or agencies providing such information.

(C) This list shall be updated on an annual basis and shall be open for inspection and shall be available so that minority businesses will have the opportunity to add their names to the list. Copies of this section shall be transmitted to the businesses on the list as soon as practicable along with the name of the official who shall serve as the contact person for minority businesses and be responsible for answering project related questions posed by minority businesses.

§ 34.49 MISDEMEANOR FOR WILLFUL VIOLATIONS.

Any person, firm, corporation or association who willfully attempts in any manner to evade a tax imposed herein or who willfully fails to pay the tax or makes and files a return shall, in addition to the penalties provided by law and herein, be guilty of a misdemeanor punishable as provided by law.
(Ord. passed 7-10-00)

§ 34.50 EFFECTIVE DATE.

The short term rental or leased vehicle gross receipts tax levied herein shall become effective August 1, 2000.
(Ord. passed 7-10-00)

§ 34.33 DEPOSITS ON CONTRACTS.

The town may require a deposit of 5% on all contracts that exceed \$50,000. The Town Clerk shall certify that such deposits have been obtained before contracts are awarded.
(Ord. passed 3-12-90)

§ 34.34 NUMBER OF BIDS REQUIRED.

The town shall require at least three sufficient bids on contracts for construction or repair work that exceed the maximum amount allowed by G.S. § 143-129. If less than three bids are received, the town shall re-advertise and after the second advertisement, may award the contract even if only one bid is received.
(Ord. passed 3-12-90)

§ 34.35 WITHDRAWAL OF BID.

If a contractor who submits a formal bid for a construction or repair project discovers an error in the bid, the contractor may request that the bid be withdrawn and his deposit returned. Such a request must be made before the contract is awarded and within 72 hours after the bids are opened. The Board of Commissioners shall hold a hearing on the matter and may allow the bid to be withdrawn if an error is found. Otherwise, the bid deposit is forfeited. A contractor who makes such a request will not be awarded the contract, even after a subsequent re-advertisement
(Ord. passed 3-12-90)

§ 34.36 PUBLICATION OF BIDS.

Pursuant to a resolution by the Board of Commissioners, bids shall be invited by publication of a notice at least eight days before, or in the case of real property, 30 days before the date specified for the opening of bids. Such advertisement shall state the time and place where plans and specifications, or descriptions of supplies, materials and equipment may be had; the time and place for opening of the bids and shall reserve to the Board of Commissioners the right to reject any and all bids.
(Ord. passed 3-12-90)

LEASE OR RENTAL OF MOTOR VEHICLE TAX**§ 34.45 TAX IMPOSED.**

The town hereby imposes and levies a tax of 1½% of the gross receipts from the short-term lease or rental of vehicles at retail to the general public.
(Ord. passed 7-10-00)

§ 34.46 ADMINISTRATION.

The town will administer and collect from operators of leasing and rental establishments the taxes levied hereby and the town may promulgate additional rules and regulations necessary for implementation of the taxes.
(Ord. passed 7-10-00)

§ 34.47 PAYMENT OF TAXES; FILING OF RETURNS.

The taxes levied hereby are due and payable to the town in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every taxable establishment required to collect the tax shall, on or before the fifteenth day of each month, prepare and render a return to the town. The town shall design, print, and furnish to all taxable establishments the necessary forms for filing returns and instructions to insure the full collection of the tax. A return filed for this purpose is not a public record as defined by G.S. § 132-1 and may not be disclosed except as required by law.
(Ord. passed 7-10-00)

§ 34.48 PENALTIES.

In case of failure or refusal to file a return or pay the tax for a period of 30 days after the time period required for filing the return or paying the tax, there shall be an additional tax, as a penalty, of 5% of the tax due, with an additional tax of 5% for each additional month or fraction thereof until the tax paid. The Town Board of Commissioners for good cause shown, may compromise or forgive any penalty or additional tax imposed hereunder.
(Ord. passed 7-10-00)

shall pay the obligations of the town on the fifteenth and twenty-fifth day of each month. The Finance Officer shall pay the obligations of the town by the due date. The Finance Officer shall determine whether or not the discount for cash payment is more beneficial than payment on the billing's due date. The Finance Officer shall periodically review the disbursement cycle and changes shall be instituted if the disbursement cycle can be extended.

(B) The Finance Officer shall require that all departments consolidate payments to one vendor. The Finance Officer shall ensure that all departments using the same vendor(s) receive the same due date and discount date. The Finance Officer shall mail all checks after 12:00 noon provided the afternoon mailing will not result in missing the discount or payment due date.

(C) The Finance Officer shall issue payroll checks once a week. In addition, the Finance Officer shall submit payroll taxes on the due date.

(D) The Finance Officer shall constantly review supplier contracts to ascertain whether or not the town is paying only for goods and services received or rendered.
(Ord. passed 11-10-86; Am. Ord. passed 3-10-97)

§ 34.21 REPORTING ON THE PLAN.

(A) The Finance Officer shall report monthly to the Finance Committee Chairman concerning the actual receipts and disbursements. Any overages or shortages shall be explained. The Finance Officer shall report to the Board of Commissioners the status of delinquent tax payment and other revenues due to the town.

(B) The Finance Officer shall report to the Mayor any changes in bank service charges and the amount of additional money required to offset the increased banking costs.

(C) The Finance Officer shall report to the Board of Commissioners the status of delinquent tax payments and other revenues due to the town from private persons.

(D) The Finance Officer shall semiannually submit the LGC-203 report of cash balances to the secretary of the Local Government Commission pursuant to G.S. § 159-33.

(E) Each year the plan shall be reviewed by the Finance Officer during budget preparation. The Finance Officer shall report to the Finance Committee any amendments that need to be adopted, any procedural changes needed, and any actions necessary to be taken by the Board to enhance the cash management plan.

(F) The Finance Officer shall report to the Board of Commissioners any deviations from the cash management plan and efforts undertaken to ensure that such deviations do not reoccur.
(Ord. passed 11-10-86)

PURCHASING PROCEDURES**§ 34.30 FORMAL BID PROCEDURE.**

(A) If the estimated cost of supplies, apparatus, materials or equipment to be purchased exceeds \$20,000 the town shall advertise and receive formal bids.

(B) If the estimated cost of a contract for construction or repair work exceeds the maximum amount allowed by G.S. § 143-129, the town shall advertise and receive formal bids before awarding the contract.

(Ord. passed 3-12-90)

§ 34.31 INFORMAL BID PROCEDURE.

(A) When the cost of a purchase contract or a contract for construction or repair work exceeds \$10,000 but is less than the formal bid limits, the town shall obtain informal bids. The Town Clerk shall receive such bids, and shall keep and maintain for public inspection a record of all bids submitted.

(B) All contracts shall be awarded to the lowest responsible bidders, taking into account quality, performance, and the time specified in the proposal.

(Ord. passed 3-12-90)

§ 34.32 EXCEPTIONS TO BID PROCEDURES.

Neither formal nor informal bid procedures will be followed:

(A) For purchases of gasoline, diesel fuel, alcohol fuel, motor fuel, or fuel oil;

(B) In cases of special emergency involving the health and safety of the citizens of the town or their property;

(C) If the contract is between the town and another governmental unit or the United States Government;

(D) If the project will use unemployment relief labor paid for in whole or in part from state or federal funds;

(E) If it is a construction project, cost of which will not exceed \$75,000 and the work is to be done by employees of the town; or

(F) If it is a contract with the State Highway Commission for street construction and repair.

(Ord. passed 3-12-90)

securities pledged for the town's deposits fall to a level that is materially less than the amount of deposits. All escrow agreements shall be executed between the depository and the escrow agent as found in 20 NCAC 7.

(I) Certificates of deposit purchased by the town shall be delivered to the Finance Officer. The Finance Officer shall ensure proper diversification of investments in order to minimize risks brought on by economic and market changes.

(Ord. passed 11-10-86; Am. Ord. passed 3-10-97)

§ 34.17 BANKING RELATIONS.

(A) Should the value of the town's demand and time deposits exceed the federal depository insurance coverage limits, the Finance Officer shall determine the financial soundness of banks and savings and loans with which the town desires to do business.

(B) The town shall maintain only two checking accounts: a cash concentration account and an imprest payroll account. The Board of Commissioners will designate the selected financial institution as the official depository for the town. The Finance Officer shall sign a contract with the official depository establishing the banking services and costs that will be applicable to the town.

(C) The Finance Officer shall maintain a balance in the official depository equal to one month's expenditures or an amount sufficient to offset the costs associated with the account, whichever is greater. The Finance Officer shall constantly review the activity on the accounts to determine target balances which shall accomplish the objectives of bank compensation and expenditure coverage.

(Ord. passed 11-10-86)

§ 34.18 BILLING.

(A) For utility and tax billing, the objective shall be to reduce the processing time so payments will be received at an earlier date. Utility bills shall be mailed no later than the first day of each month. Utility customers' due date shall be the 15th day of each month.

(C) Tax bills shall be mailed as soon as possible after the budget is adopted and the tax rate established for the fiscal year. A second notice shall be mailed to all delinquent taxpayers promptly after January 6 each year. The governing board directs the Tax Collector to advertise tax liens on real property and sets the date for advertising tax liens in accordance with North Carolina General Statutes 105-369.

(D) The Tax Collector shall begin attachment and garnishment procedures on intangible personal property on February 1. The Tax Collector may request a law enforcement officer to deliver these

notices to property owners if delivery by the U.S. Postal Service is unsuccessful.
(Ord. passed 11-10-86; Am. Ord. passed 3-10-97)

Cross-reference:

Disconnection for late payment of water bill, see § 51.19

§ 34.19 INVESTMENTS.

(A) Moneys shall be deposited into the appropriate investment accounts at the First Bank no later than 2:00 p.m. to ensure that the deposit will be credited for that day. The deposits shall be made by the Finance Officer or by employees duly authorized to do so and supervised by the Finance Officer. All employees shall also promptly forward copies of deposit tickets to the Finance Officer for deposit verification.

(B) The town shall remain 100% invested at all times with the exception of moneys transferred to the imprest payroll account and moneys held out for petty cash, travel fund, and change purposes. (100% invested refers to actual investments as well as the use of interest-bearing checking accounts.)

(C) Eligible investments shall be limited to obligations of the U.S. Government, such as treasury bills, bonds and notes, time deposits with any bank or savings and loans whose principal office is in the state, and the State Cash Management Trust. Time Deposits in excess of the Federal Deposit Insurance of \$100,000 shall be placed with only those financial institutions which have been analyzed and determined credit-worthy by the Finance Officer. Repurchase agreements shall not be permitted unless approved by the Board of Commissioners.

(D) Collateralization for deposits shall be in accordance with Title 20, Chapter 7 of the North Carolina Administrative Code. All deposits for the town shall be fully protected through deposit insurance and collateral securities pursuant to 20 NCAC 7. When utilizing a financial institution, the Finance Officer shall immediately require additional collateral to be pledged should the value of securities pledged for the town's deposits fall to a level that is materially less than the amount of deposits. All escrow agreements shall be executed between the depository and the escrow agent as found in 20 NCAC 7.

(E) Certificates of deposit purchased by the town shall be delivered to the Finance Officer.

(F) The Finance Officer shall ensure proper diversification of the investments in order to minimize risks brought on by economic and market changes.
(Ord. passed 11-10-86)

§ 34.20 DUTIES OF FINANCE OFFICER; CASH DISBURSEMENT PROCEDURES.

(A) The Finance Officer shall appropriate and expend municipal money pursuant to G.S. § 159-28(b). To create the maximum amount of funds available for investment, the Finance Officer

§ 34.04 BOARD OF COMMISSIONERS TO AUTHORIZE TAX COLLECTION.

Before delivering the tax receipts to the Tax Collector in any year, the Board of Commissioners shall adopt and enter into its minutes, an order directing the Tax Collector to collect taxes charged in the tax records and receipts.

(Ord. passed 7-13-87)

§ 34.05 UNPAID TAXES THAT ARE LIENS ON REAL PROPERTY.

(A) On the second Monday in February in each year, each Municipal Tax Collector shall report to the governing body the total amount of unpaid taxes for the current fiscal year that are liens on real property, and the governing body shall thereupon order the Tax Collector to advertise such tax liens.

(B) The Municipal Tax Collector shall advertise municipal tax liens by posting a notice of the liens at the town hall and by publishing each lien at least one time in one or more newspapers having general circulation in the taxing unit. Advertisements of tax liens shall be made during the period March 1 through June 30. The cost of newspaper advertising shall be paid by the taxing unit.

(Ord. passed 2-13-89)

CASH MANAGEMENT AND INVESTMENT PLAN**§ 34.15 CASH MANAGEMENT PLAN ESTABLISHED.**

(A) The Board of Commissioners hereby adopts the Cash Management and Investment Plan dated November 10, 1986. This cash management plan addresses cash receipts, cash mobilization and management of available resources (investments), cash disbursements, banking relations, and monitoring and reporting on the plan.

(B) The independent auditor for the town shall monitor the town's compliance with the established cash management plan and the reports of the Finance Officer thereon. He shall report his findings and recommendations annually to the Board as a part of the annual audit.

(C) Each year the plan will be reviewed by the Finance Officer during budget preparation. The Finance Officer shall amend the plan, as appropriate, to further enhance the town's cash management program. All plan amendments shall be presented to the Mayor and/or Finance Commissioner for review before the amendment is presented to the Board.

(D) All employees of the town shall follow the cash management plan and provisions of this subchapter, and the willful or continued failure to do so is sufficient cause for immediate dismissal from city employment. Any deviations from the plan by any official or employee shall be reported to the Mayor and Board at the next Board meeting after the deviation has occurred.

(Ord. passed 11-10-86)

§ 34.16 BANKING AND INVESTMENTS.

(A) The Finance Officer shall devise and implement a banking system for the town. This system shall include central investment accounts for all funds and a central depository checking account for all funds and an imprest payroll account.

(B) The Board of Commissioners will designate the selected financial institution as the official depository for the town. The Finance Officer shall sign a contract with the official depository establishing the banking services and costs that will be applicable to the town.

(C) The Finance Officer shall maintain a balance in the official depository equal to one month's expenditures or an amount sufficient to offset the costs associated with the account, whichever is greater. The Finance Officer shall constantly review the activity in the accounts to determine target balances which shall accomplish the objectives of bank compensation and expenditure coverage.

(D) Deposits of all cash receipts on hand shall be made to the investment accounts daily or whenever moneys on hand amount to \$250. All moneys shall be deposited no later than 2:00 p.m. to ensure the deposit will be credited for that day. The deposits shall be made by the Finance Officer or by employees duly authorized to do so and supervised by the Finance Officer. All employees shall also promptly forward copies of deposit tickets to the Finance Officer for deposit verification. For high volume periods during the year, the Finance Officer will make personnel reassignments, if necessary, to assure prompt deposits are made. For checks received and deposited which are returned due to insufficient funds, prompt action will be undertaken to collect good funds.

(E) Applications and reports to the state and federal governments for reimbursement or claims are to be filed promptly. All department heads who administer programs that receive money from other governments are to meet with the Finance Officer to establish a cash flow schedule for these moneys.

(F) The town shall remain 100% invested at all times with the exception of moneys transferred to the imprest payroll account and moneys held out for petty cash, travel fund, and change purposes. Eligible investments shall be limited to obligations of the U.S. Government, time deposits with any financial institution whose principal office is in North Carolina and the North Carolina Cash Management Trust. Time deposits in excess of the Federal Deposit Insurance of \$100,000 shall be placed with only those financial institutions which have been analyzed and determined credit-worthy by the Finance Officer.

(G) Repurchase agreements shall not be permitted unless approved by the Board of Commissioners.

(H) Collateralization for deposits shall be in accordance with Title 20, Chapter 7 of the North Carolina Administrative Code. All deposits for the town shall be fully protected through deposit insurance and collateral securities pursuant to 20 NCAC 7. When utilizing a financial institution, the Finance Officer shall immediately require additional collateral to be pledged should the value of

§ 34.03 PURCHASING ORDER.

(A) Before any order is given for items to be paid by the town or any purchase made by an town employee, a purchasing order must first be obtained from the Clerk.

(B) Any town employee purchasing goods without a purchase order from the Clerk will be held responsible for the cost of the goods.

('79 Code, § 2-4-3)

CHAPTER 34: FINANCE AND REVENUE; TAXATION

Section

General Provisions

- 34.01 Disbursement of funds; certificate
- 34.02 Purchasing agent
- 34.03 Purchasing order
- 34.04 Board of Commissioners to authorize tax collection
- 34.05 Unpaid taxes that are liens on real property

Cash Management and Investment Plan

- 34.15 Cash management plan established
- 34.16 Banking and investments
- 34.17 Banking relations
- 34.18 Billing
- 34.19 Investments
- 34.20 Duties of Finance Officer; cash disbursement procedures
- 34.21 Reporting on the plan

Purchasing Procedures

- 34.30 Formal bid procedure
- 34.31 Informal bid procedure
- 34.32 Exceptions to bid procedures
- 34.33 Deposits on contracts
- 34.34 Number of bids required
- 34.35 Withdrawal of bid
- 34.36 Publication of bids

Lease or Rental of Motor Vehicle Tax

- 34.45 Tax imposed
- 34.46 Administration
- 34.47 Payment of taxes; filing of returns
- 34.48 Penalties
- 34.49 Misdemeanor for willful violations
- 34.50 Effective date

GENERAL PROVISIONS**§ 34.01 DISBURSEMENT OF FUNDS; CERTIFICATE.**

(A) In accordance with the Local Government Budget and Fiscal Control Act, no bill or claim against the town may be paid unless it has been approved by the officer or employee responsible for the function or agency to which the expense is charged. No check or draft of the town shall be valid unless it bears on its face the certificate of the Finance Officer as follows: "This disbursement has been approved as required by the Local Government Budget and Fiscal Control Act."

(B) No contract, agreement or purchase order shall be valid unless it bears the Finance Officer's certificate as follows: "This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act."

('79 Code, § 2-4-1)

Statutory reference:

Preaudit of disbursements required, see G.S. § 159-28

§ 34.02 PURCHASING AGENT.

The Clerk shall serve as purchasing agent and as such shall:

(A) Make or approve all purchases of material, equipment and supplies authorized by the Board;

(B) Establish sets of standards and specifications to control purchases by the town;

(C) Prepare and publish specifications and notices to bidders;

(D) Advise the Board as to anticipated needs for purchases and make purchases in advance of needs as authorized by the Board;

(E) Store material, equipment and supplies in advance of actual need;

(F) Keep records of all purchases made and of the destination or ultimate use of the material, equipment and supplies; and

(G) Cause to be kept an inventory of all town property.

('79 Code, § 2-4-2)

Cross-reference:

Town Clerk, see § 31.15

(G) One month of retirement credit is allowed for each 20 days accrued in an employee's sick leave account at time of retirement, if the employee is a member of the State Local Employees' Retirement System.

(Ord. passed 6-13-94)

§ 33.05 TRAVEL EXPENSES.

(A) *Purpose.* The purpose of this policy is to establish uniform procedures for requesting and reimbursing travel expenses.

(B) *Payment of expenses.*

(1) *Transportation expenses.* Town-owned vehicles should be used for travel inside the state whenever possible. Town-owned vehicles may be used outside the state with the approval of the Board of Commissioners. The rate per mile for the use of private cars will be set by the Board of Commissioners and shall be kept in the office of the Finance Officer.

(2) *Lodging.* The town will pay the actual cost of lodging for the employee only.

(3) *Meals.* Reasonable actual cost of meals will be reimbursed whenever travel requires the employee to be out of town for a full eight hours or meals are an official part of a scheduled program.

(4) *Registration fees.* The town will reimburse the employee actual costs of all registration fees and workshop materials.

(5) *Other expenses.* Reimbursement will be made for parking fees and long distance phone calls made to transact town business.

(C) *Approval and request for reimbursement.*

(1) No later than three days after an employee returns, the employee will submit to the Department Head a travel expense voucher form accounting for all travel expenses. Receipts must be submitted for all expenses. After review of the expense voucher, the Department Head shall forward the approved copy and receipts to the Finance Officer.

(2) Reimbursement checks will be issued for travel reimbursement at the same time all other accounts payable checks are prepared. (Per the Cash Management Plan).
(Ord. passed 6-11-90; Am. Ord. passed 5-11-98)

§ 33.06 ADOPTION OF STATE 401(K) PLAN; EMPLOYER/EMPLOYEE CONTRIBUTIONS.

Whenever any full-time non-law enforcement employee makes a voluntary contribution up to 6% of gross salary to the State 401(k) Plan, the town (employer) will contribute a match of 75% of the employee's contribution.

(Ord. passed 6-12-00)

CHAPTER 33: EMPLOYEE REGULATIONS

Section

- 33.01 Equal employment opportunity policy
- 33.02 Americans with Disabilities Act transition plan
- 33.03 Cafeteria plan adopted
- 33.04 Sick leave policy
- 33.05 Travel expenses
- 33.06 Adoption of State 401(k) Plan; employer/employee contributions

§ 33.01 EQUAL EMPLOYMENT OPPORTUNITY POLICY.

The town is an equal employment opportunity employer and does not discriminate on the basis of race, color, religion, sex, age, or national origin, in the hiring of employees, or the payment of wages and salaries for equal work on jobs requiring equal skill, effort, and responsibility.

(Ord. passed 9-23-91)

§ 33.02 AMERICANS WITH DISABILITIES ACT TRANSITION PLAN.

(A) The town has completed a self-evaluation check and has reviewed employment-policies and practices. The town gives employees and applicants nondiscriminatory treatment, and policies and practices do not limit, segregate, or classify job applicants in ways that adversely affect their opportunities of status because of their disability.

(B) The town is an equal employment opportunity employer and does not discriminate on the basis of race, color, religion, sex, age, national origin, or disability.

(C) Nondiscriminatory treatment is being given to people with disabilities that affords them full and equal enjoyment of the services, facilities, privileges, and advantages that are afforded to other individuals.

(D) There are no architectural barriers or communication barriers in any existing facilities, and all future construction will be readily accessible to and usable by individuals with disabilities.

(E) All equal opportunity and nondiscriminatory policies are posted in prominent places in all facilities.

(Ord. passed 1-9-95)

§ 33.03 CAFETERIA PLAN ADOPTED.

(A) The Council hereby adopt the town flexible benefits plan (consisting of the flexible benefits plan document, the adoption agreement, and component benefit plans and policies) effective as of the date specified in the adoption agreement.

(B) Any officer of the town authorized, without further Council approval, to execute the adoption agreement, and any related documents or amendments which may be necessary or appropriate to adopt the plan or maintain its compliance with applicable federal, state, and local law.

(Ord. passed 1-14-91)

§ 33.04 SICK LEAVE POLICY.

(A) Sick leave with pay is not a right which an employee may demand, but a privilege granted by the Commissioners for the benefit of any employee when the employee is sick.

(B) Sick leave may be taken in accordance with the following:

(1) The absence is necessitated by personal illness or physical incapacity resulting from causes beyond the employee's control.

(2) Notification of the reason for absence is submitted before the beginning of the scheduled workday to the immediate supervisor.

(3) The employee may be required to present a certificate from a physician attesting the employee's illness or incapacity as the supervisor or Department Head deems necessary.

(C) Each full-time permanent and probationary employee will earn sick leave at the rate of one-half day for each completed month, or six days for each completed year of service. Sick leave may accumulate to a maximum of 90 working days.

(D) Sick leave is not allowed in any terminal leave payments when a employee separates from service with the town.

(E) Sick leave must be taken in increments of two hours or more subject to the approval of the Department Head.

(F) An employee absent because of sickness or disability covered by the State Workers' Compensation Act will go immediately on leave without pay and reserve for personal use any accumulated sick leave, and receive all the benefits for which he may be eligible under workers' compensation.

§ 32.43 EXPENDITURES; INCURRING DEBT; DONATIONS.

The expenditures of the Board, exclusive of gifts or grants, shall be within the amounts appropriated for the purpose by the Board of Commissioners, and no indebtedness for which the town shall be liable shall be contracted or incurred by the Board unless an appropriation is made by the Board of Commissioners for such purpose as authorized by law, and then only to the extent of such appropriations. The Board shall have the right to accept gifts and donations for the exercise of its functions and may expend the money received from such gifts and donations in a manner which, in the judgment of the Board, is consistent with the best interest of the planning program.

('79 Code, § 2-5-4) (Ord. passed 1-13-69)

§ 32.44 POWERS AND DUTIES.

(A) *Studies.* The Board shall make careful studies of present conditions and the probable future development of the town and its environs. Such studies may include but not be limited to land use surveys; population studies; economic base studies; schools, park and recreation studies; traffic and parking studies; and urban renewal studies.

(B) *Plans.* The Board shall formulate and maintain a comprehensive plan of the town and its environs for the purpose of achieving a coordinated, adjusted and harmonious development of the town which would promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity, and general welfare of its citizens, efficiency and economy in the process of development, convenience of traffic; safety from fire and other dangers; adequate light and air; healthful and convenient distribution of population; provision of adequate open spaces; good civic design and arrangement; wise and efficient expenditures of public funds; adequate provision for public utilities; and for other matters pertaining to the public requirements. The comprehensive plan shall consist of a number of parts which may include but not be limited to the following: land use plan, major thoroughfare plan, a utilities plan, a plan for economic development, a recreation plan, a school plan, a community facilities plan.

(C) *Zoning ordinance.* The Board may prepare a zoning ordinance to govern the use of buildings and premises, which ordinance shall be submitted to the Board of Commissioners for its consideration and possible adoption.

(D) *Subdivision regulations.* The Board may prepare subdivision regulations governing the subdivision of land within the town and its environs, to be submitted to the Board of Commissioners for its consideration and possible adoption.

(E) *Powers of review.* The Board shall review and make recommendations to the Board of Commissioners upon the extent, location, and design of all public structures and facilities, on the acquisition and disposal of public properties, on the opening, abandonment, widening, extension, narrowing or other change to streets and other public ways, on the construction, extension, expansion

or abandonment of utilities whether publicly or privately owned. However, in the absence of a recommendation from the Board after the expiration of 30 days from the date on which the question has been submitted in writing to the Board, the Board of Commissioners may, if it deems wise, take final action.

(F) *Annual report.* The Board shall, in May of each year, submit to the Board of Commissioners a report of its actions, an analysis of the expenditures to date for the current fiscal year, proposed planning program for the next fiscal year, and a proposed budget for the next fiscal year.

('79 Code, § 2-5-5) (Ord. passed 1-13-69)

(B) Recommendations of apparatus and equipment needed shall be made by the Chief, and, after approval by the Board, shall be purchased in a manner as may be designated by the Board.

(C) All equipment of the Department shall be safely and conveniently housed in those places as may be designated by the Board.

(D) Suitable arrangement or equipment shall be provided for citizens to turn in an alarm, and for notifying all members of the Department so that they may promptly respond.

(E) No person shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the Department.

(F) No person shall enter any place where fire apparatus is housed or handle any apparatus or equipment belonging to the Department unless accompanied by, or having the special permission of, an officer or authorized member of the Department.
('79 Code, § 3-2-5) Penalty, see § 10.99

§ 32.30 RULES AND REGULATIONS.

(A) Each member of the Department shall be issued a badge designating his rank.

(B) All motor equipment and all personal cars of Department members shall have right-of-way over all other traffic when responding to an alarm.

(C) Each member of the Department driving a car shall be issued a suitable insignia to be attached to the car.

(D) No person shall drive any vehicle over fire hose except upon specific orders from the Chief or other officer in charge where the hose is issued.

(E) No person shall park any vehicle or otherwise cause any obstruction to be placed within 25 feet of the entrance to any fire station or other place where fire apparatus is stored, or within 15 feet of any fire hydrant or cistern.

(F) No person shall maliciously turn in or cause to be turned in a false fire alarm.
('79 Code, § 3-2-6) Penalty, see § 10.99

§ 32.31 ENFORCEMENT.

(A) All regularly appointed members of the Department are hereby given the necessary special police powers for the purpose of enforcing the provisions of this subchapter.

(B) It is hereby made the special duty of the Chief of Police and other peace officers who may be on duty and available for fire duty, to respond to all fire alarms and assist the Department in the protection of life and property, in regulating traffic, maintaining order, and in enforcing observances of all sections of this subchapter.
(’79 Code, § 3-2-7)

PLANNING BOARD

§ 32.40 ESTABLISHMENT.

A Planning Board for the town is hereby created under the authority of G.S. § 160A-361.
(’79 Code, § 2-5-1) (Ord. passed 1-13-69)

Cross-reference:

Zoning, see Ch. 151

§ 32.41 COMPOSITION; VACANCIES.

The Planning Board, hereinafter referred to as the Board, shall consist of eight members, four of whom shall be citizens of the town and four of whom shall be residents of the county residing in the one mile extraterritorial jurisdiction of the town. The Mayor shall serve *ex officio* without voting privilege. The Board of Commissioners shall appoint the four members from the town and recommend the four members from the extraterritorial area to be appointed by the County Board of Commissioners. Two members from the town and two members from the extraterritorial area shall be appointed for terms of three years; one member from the town and one member from the extraterritorial area shall be appointed for terms of two years; and one member from the town and one member from the extraterritorial area shall be appointed for terms of one year. As the terms of these eight members expire, new appointments for terms of three years shall be made. Vacancies, occurring for reasons other than expiration of terms, shall be filled as they occur by the Town Board of Commissioners or County Board of Commissioners for the period of the unexpired term. Faithful attendance at the meetings of the Board is considered a prerequisite for the maintenance of a member on the Board. (’79 Code, § 2-5-2) (Ord. passed 1-13-69; Am. Ord. passed 3-3-70)

§ 32.42 ORGANIZATION.

Within 30 days after appointment, the Board shall meet and elect a chairman and create and fill such offices as it may determine. The term of the chairman and other officers shall be one year, with eligibility for re-election. It shall adopt rules for transaction of business and shall keep a record of its members’ attendance, and of its resolutions, discussions, findings, and recommendations, which record shall be a public record. The Board shall fix the time and place of its meetings, and all of its meetings shall be open to the public.

(’79 Code, § 2-5-3) (Ord. passed 1-13-69)

(D) The Chief of Police is hereby further authorized to request mutual aid assistance from other law enforcement agencies in accordance with such reasonable arrangements, terms and conditions as may be agreed upon between the respective heads of the law enforcement agencies.
(Ord. passed 12-14-87)

FIRE DEPARTMENT

§ 32.25 DEPARTMENT ESTABLISHED.

There is hereby created a department known as the Biscoe Volunteer Department, the object of which shall be the prevention and extinguishment of fire and the protection of life and property within the limits of the town.
(’79 Code, § 3-2-1)

§ 32.26 APPOINTMENT OF OFFICERS; COMPOSITION.

(A) The Department shall consist of a Chief, Assistant Chief, and such other officers as the Board may deem necessary for the effective operation of the Department.

(B) The Chief shall be appointed by the Board for an indefinite period of time, and his tenure of office shall depend upon his good conduct and efficiency. The Chief shall be technically qualified by training and experience, and shall have ability to command men and hold their respect and confidence.

(C) The Chief shall be held accountable to the Board only, and shall make written and verbal reports thereto as the Board may require.

(D) The Assistant Chief and all other department and company officers shall be appointed by the Board.
(’79 Code, § 3-2-2)

§ 32.27 DUTIES AND POWERS OF CHIEF.

(A) The Chief shall formulate a set of rules and regulations to govern the Department, and shall be responsible to the Board for the personnel, morale and general efficiency of the Department.

(B) The Chief shall determine the number and kind of companies of which the Department is to be composed, and shall determine the response of the companies to alarms.

(C) The Chief shall, at least once a month, conduct suitable drills or instruction in the operation and handling of equipment, first aid and rescue work, salvage, a study of buildings in the town, fire prevention, water supplies, and all other matters generally considered essential to good firefighting and safety of life and property from fire.

(D) The Chief shall assist the proper authorities in suppressing the crime of arson by investigating or causing to be investigated the cause, origin and circumstances of all fires.

(E) The Chief is hereby empowered to enter any and all buildings and premises at any reasonable hour for the purpose of making inspections and to serve written notice upon the owner or occupant to abate, within a specified time, any and all fire hazards that may be found. Any person so served with a notice to abate any fire hazard or hazards, shall comply therewith and promptly notify the Chief.

(F) The Chief shall see that complete records are kept of all fires, inspections, apparatus and minor equipment, personnel and other information about the work of the Department.

(G) The Chief shall report monthly to the Board the conditions of the apparatus and equipment; the number of fires during the month, their location and cause, and date of same and loss occasioned thereby; the number and purpose of all other runs made; and the number of members responding to each fire or other run.

(H) The Chief shall make a complete annual report to the Board within one month after the close of the fiscal year. The report to include the information specified in division (G), together with comparative data for previous years and recommendations for improving the effectiveness of the Department.

('79 Code, § 3-2-3)

§ 32.28 MEMBERSHIP OF DEPARTMENT.

(A) The membership of the Department shall consist of those persons as may be appointed by the Board, who shall be able-bodied citizens, preferably property owners, whose business activities are normally within the town, and who have telephones in their homes. Determination of whether candidates for appointment are able-bodied shall be made by the Board, after a medical and physical examination has been made in a manner prescribed by the Chief and approved by the Board.

(B) Any member of the Department may be suspended or discharged from the Department by the Board at any time the Board may deem such action necessary for the good of the Department.

('79 Code, § 3-2-4)

§ 32.29 APPARATUS AND EQUIPMENT.

(A) The Department shall be equipped with such apparatus and other equipment as may be required from time to time to maintain its efficiency and properly protect life and property from fire.