

TITLE III: ADMINISTRATION

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CHAPTER 30: BOARD OF COMMISSIONERS

GENERAL PROVISIONS

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

- (A) The Mayor and Town Board of Commissioners shall be charged with the general government and administration of the affairs of the town.
- (B) The powers and duties of the Town Board shall be as set out in the general statutes of the state, the Town Charter, and the ordinances of the town.
- (C) The Mayor shall be the chief executive officer of the town, and as that officer, shall perform the following duties:
 - (1) Keep himself or herself informed as to the town's business;
 - (2) Preside over the meetings of the Town Board of Commissioners;
 - (3) Sign all contracts, ordinances, resolutions, franchises, and all other documents as authorized by the Town Board;
 - (4) Appoint all committees and outline their duties, under the general direction of the Town Board;
 - (5) Make recommendations to the Town Board concerning the affairs of the town, as he or she deems necessary;
 - (6) Represent the town at ceremonies and other official occasions; and

- (7) Perform other duties as authorized by the general statutes, the Town Charter, and this code of ordinances.

Statutory reference:

Board to organize town government, see G.S. §160A-146
Duties of Mayor, see G.S. §160A-69

§30.02 MAYOR PRO TEM; SELECTION AND DUTIES.

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

Statutory reference:

Mayor Pro Tem, see G.S. §160.4-70

§30.03 BOARD'S POWER OVER EMPLOYEES.

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

- (A) *Prescribe rules.* The Board may 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, the Board may 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.* The Board may set aside any action taken by a town administrative official and may supersede him or her in the functions of his or her office;
- (D) *Delegate duties.* The Board may direct any official department, division, or employee to perform work for any other official, department, division, or employee;
- (E) *Provide for administrative committees.* The Board may 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.* The Board may require any employee of the town to appear before and report to the Board at any meeting.

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 Town Board. All reports of committees shall be in writing, and committee members shall receive that compensation for extra and special service as the Board may designate.

- (B) Each committee shall be held responsible for its respective department or the special object for which it is appointed, and shall make those recommendations to the Mayor and the Board as it deems advisable.

§30.03 COMPENSATION.

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

Statutory reference:

Compensation of Mayor and Board, see G.S. §160.4-64

MEETINGS, RULES OF PROCEDURE

§30.15 REGULAR MEETINGS.

The regular meetings of the Town Board shall be held on the third Tuesday of each month at 7 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.

§30.16 SPECIAL MEETINGS.

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

Statutory reference:

Special meetings, see G.S. §160A-71

§30.17 ADJOURNED MEETINGS.

Any meeting of the Town 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.

§30.18 ORDER OF BUSINESS.

- (A) At the hour appointed for the meeting of the Town Board, the Mayor shall take the chair and direct a call of the members by the Town 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 upon 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 or old business;
 - (6) New business;
 - (7) Announcements and general discussions; 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.

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 Town Board should be delivered or submitted to the Town 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 or herself 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 or her to order or as otherwise provided under applicable rules of parliamentary procedure. If a member, while speaking, is called to order, he or she shall cease speaking until the question of order is determined and, if in order, he or she 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 or her name and address for the records, and unless special time is granted by the Board, shall limit his or her remarks to three 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 of 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 or her 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.

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.

§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.

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

Statutory reference:

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

§30.33 ORDINANCE BOOK.

The Town 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.

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.

CHAPTER 31: TOWN OFFICIALS AND EMPLOYEES

GENERAL PROVISIONS

§31.01 CONSOLIDATION OF OFFICES.

Except as otherwise provided by law, the Town Board of Commissioners may, in its discretion, consolidate any two or more offices and assign the duties of those offices to one or more persons.

§31.02 EMPLOYEES SERVE AT THE PLEASURE OF THE BOARD.

All employees elected or appointed by the Town Board shall hold office at the pleasure of the Board and may be removed at any time by the Board.

§31.03 CONFLICT OF INTERESTS.

No member of the Town 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.

TOWN OFFICERS

§31.15 TOWN CLERK.

- (A) The Town Board shall appoint a Town Clerk.
- (B) It shall be the duty of the clerk to:

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

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.

- (A) The Town Board shall appoint a Town Attorney.
- (B) The duties of the Town Attorney shall be to:
 - (1) 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;
 - (2) See to the full enforcement of all judgments or decrees rendered or entered in favor of the town;
 - (3) See to the completion of all special assessment proceedings and condemnation proceedings;

- (4) 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;
- (5) At the request of the Board, draft ordinances covering any subjects within the power of the town;
- (6) Attend meetings of the Board upon request; and
- (7) Perform any other duties required of him or her by G.S. §160A-173 and other laws and ordinances.

Statutory reference:

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

§31.17 FINANCE OFFICER.

- (A) The Town Board shall provide for the appointment of a Finance Officer.
- (B) The duties of the Finance Officer shall be to:
 - (1) Keep the books and accounts of the town;
 - (2) Receive and disburse all monies of the town as required by state law;
 - (3) Countersign and preaudit all checks, drafts, contracts, purchase orders, or other documents obligating town funds;
 - (4) Report to the Board concerning the finances of the town, as they may require;
 - (5) Maintain all records of the bonded debt of the town and maintain sinking funds;
 - (6) Supervise the investment of idle funds; and
 - (7) Perform other duties assigned by the general statutes, the Town Charter, or the Board.

Statutory reference:

Duties of Finance Officer, see G.S. §159-25

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

CHAPTER 32: BOARDS, COMMISSIONS, AND DEPARTMENTS

(Am. Ord. passed 6-14-05; Am. Ord. passed 4-4-06) **§32.16 DUTIES OF POLICE OFFICERS.**

GENERAL PROVISIONS

§32.01 DEPARMENTS ENUMERATED.

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

- (A) Police Department; and
- (B) Volunteer Fire Department

POLICE DEPARTMENT

§32.15 DEPARTMENT ESTABLISHED; COMPOSITION.

- (A) The Town Police Department is hereby created subject to the terms, authority, and conditions set out herein.
- (B) The Police Department of the town shall consist of a Police Chief and officers, patrol officers, and police officers of designated grades as the Town Board deems necessary.

Statutory reference:

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

(A) The Police Chief 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 her, or upon his or her knowledge of any violation of the ordinances of the town or any 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.

§32.17 HIRING AND DISCHARGE OR PERSONNEL.

The Town 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 Department members.

§32.18 CONDITIONS OF EMPLOYMENT; REQUIREMENTS.

- (A) *Conditions.*
 - (1) Members of the Police Department shall be appointed by the Town Board after due examination by the Board, and based upon the results of the examination.
 - (2) An appointee shall serve six months' probation.

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

- (1) Be a citizen of the United States;
- (2) Be at least 21 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 offense involving moral turpitude;
- (6) Have a high school diploma or its equivalent;
- (7) Pass an examination conducted by a physician accepted or designated by the town;
- (8) Be interviewed and approved by the Board or its designee;
- (9) Pass a pre-emptive drug test;
- (10) Pass any test required for state certifications; and
- (11) Be certified in accordance with state law.

Statutory reference:

Local law enforcement officers; state certification, see G.S. §§17C-1 et seq.

§32.19 POLICE CHIEF; POWERS AND DUTIES.

(A) *General supervision of the Board.* The Police Chief, subject to the general supervision of the Town Board, is held responsible for the discipline, good order, and proper conduct of the Department.

(B) *Specific duties.*

- (1) The Police Chief shall command the Department under his or her order, and is responsible for its discipline and efficiency. Further, the Police Chief 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 improvement in the service or personnel of the Department.

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

- (a) To issue to the Department under his or her command those orders and directives as may be necessary to preserve the public peace, prevent crime, arrest offenders, and protect public and private property and persons in the town;
- (b) To enforce the laws, ordinances, police regulations, and executive orders applicable to his or her 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.

§32.20 MUTUAL AID ASSISTANCE.

(A) The Police Chief 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 Police Chief 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, pow-

ers, rights, privileges, and immunities as the officers of the requesting agency.

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

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

(E) No person shall park any vehicle 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.
Penalty, see §10.99

§32.21 AUXILIARY POLICE DIVISION.

This is to acknowledge establishment, within the town police department, an auxiliary police division. Auxiliary police officers shall be comprised of volunteers, all of whom shall serve without compensation, and composed of as many members as may, from time to time, be determined by the Town’s chief of police.

§32.32 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 Police Chief and other peace officers who may be on duty and available for fire duty, to respond to all fire alarms and assist the Volunteer Fire Department in the protection of life and property, in regulating traffic, maintaining order, and in enforcing observance of all sections of this subchapter.

VOLUNTEER FIRE DEPARTMENT

§32.30 DEPARTMENT ESTABLISHED.

There is hereby created a department known as the Town Volunteer Fire 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.

COMBINED PLANNING BOARD AND BOARD OF ADJUSTMENT

§32.31 RULES AND REGULATIONS.

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

(B) All motor equipment of the Department shall have the 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.

§32.45 ESTABLISHMENT.

There is hereby established a board to be known as the Cooleemee Planning Board whose jurisdiction shall include the area within the territorial jurisdiction of the Town of Cooleemee pursuant to N.C.G.S. 160A-361 and 160A-362, to perform the functions and duties prescribed in this article.

§32.46 COMPOSITION AND TERM OF OFFICE.

The Town Planning Board/Board of Adjustment shall consist of seven (7) regular members. The Seven (7) regular members shall reside within the corporate limits of the Town of Cooleemee and shall be appointed by the Town Commissioners. Members shall hold no other public office or position under Town government. Three (3) of the initial members of the board shall be appointed for three (3) year terms, three (3) members for two (2) year terms, and one (1) member shall serve for a one (1) year term. Their successors shall be appointed for full terms of three (3) years each. In the case of a vacancy occurring during a term, the Town Commissioners shall appoint a replacement for the unexpired portion of the term.

In cases where the Town establishes Extraterritorial Jurisdictional (ETJ) authority over a given area as specified by an extraterritorial boundary ordinance adopted pursuant to G.S. 160A-360(b), the Town shall allow for a individual residing within the ETJ area to be appointed to act as a regular Board member in accordance with G.S. 160A-360. ETJ members to the Planning Board/Board of Adjustment shall be appointed by the board of county commissioners in accordance with North Carolina General Statutes.

The individual(s) appointed to the Board as representatives of the ETJ area shall have equal rights, privileges, and duties with the other members of the Board in all matters pertaining to the regulation of such area, both in preparation of the original regulations and in consideration of any proposed amendments to such regulations.

On all matters pertaining to the regulation of the area within the corporate limits, only those planning board members appointed by the town board of commissioners to represent the area within the corporate limits shall vote.

§32.47 ORGANIZATION; RULES; RECORDS.

The Board shall elect a chairman and create and fill such other offices as it may determine. The term of the chairman and other officers shall be one (1) year, with eligibility for reelection. The Board shall adopt

rules for transaction of its 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 hold at least one (1) meeting monthly, and all of its meetings shall be open to the public.

In cases where the Board is acting as the Board of Adjustment, meetings shall be held in accordance with the provisions outlined within the Town of Cooleemee Zoning Ordinance with respect to meeting organization and operation.

For taking action on any matter pertaining to the ETJ area, there shall be present a quorum of no less than four (4) members, one of whom must be a representative from the ETJ area.

For taking action on any matter pertaining to the area within the corporate limits, there shall be present a quorum of no less than four (4) of the members appointed to represent such area.

Faithful attendance at meetings is considered a prerequisite for the maintenance of membership on the Board.

§32.49 POWERS AND DUTIES.

It shall be the duty of the Town of Cooleemee Planning Board to view and recommend plans to bring about a coordinated and harmonious development of the area. The Town of Cooleemee Planning Board is hereby designated as the Planning Agency for the preparation of a Zoning Plan for the Town of Cooleemee under the authority of N.C.G.S Chapter 160A-387. In addition, the Planning Board is empowered to:

- (A) Acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions;
- (B) To identify needs and problems growing out of those conditions;
- (C) To prepare, and from time to time amend and revise, a comprehensive and coordinated plan for the physical development of the area;

(D) To establish principles and policies for guiding **§32.51 SUBDIVISION REGULATIONS.** action in the development of the area;

(E) To prepare and recommend to the board of commissioners ordinances promoting orderly development along the lines indicated in the comprehensive plan;

(F) To determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area;

(G) To keep the board of commissioners and the general public informed and advised as to these matters; and

(H) To perform any other duties that may lawfully be assigned to it.

(A) The Planning Board shall prepare and submit to the Town of Cooleemee Board of Commissioners for its consideration and possible adoption regulations controlling the subdivision of land in accordance with the provisions of Part Two (2) Article Nineteen (19) of Chapter 160A of the North Carolina General Statutes as amended. It shall review, from time to time, the effectiveness of such regulations and may make proposals to the Town Board of Commissioners for amendment of other improvement of those regulations and their enforcement.

(B) In accordance with the provisions of any regulations that are adopted, the Planning Board may review subdivision plats that are submitted and (a) make recommendations to the Town Commissioners concerning such plats or (b) approve them, approve them subject to conditions, or deny approval for a submitted plat.

§32.50 ZONING AMENDMENTS.

(A) The planning board shall prepare and submit to the board of commissioners for its consideration and possible adoption a zoning ordinance for the control of the height, area, bulk, location, and use of buildings and premises in the area, in accordance with the provisions of G.S. 160A-360 et seq.

(B) The planning board may initiate from time to time proposals for amendment of the zoning ordinance and map, based upon its studies and plans. In addition, it shall review and make recommendations to the board of commissioners concerning all proposed amendments to the zoning ordinance and map.

(C) The Planning Board shall serve as a Board of Adjustment under the zoning ordinance, hear appeals, interpret the ordinance, issue or deny special use permits and/or conditional use permits, and grant variances in accordance with the requirements established for the Board of Adjustment under the Town of Cooleemee Zoning Ordinance.

§32.52 MISCELLANEOUS POWERS AND DUTIES.

(A) The planning board may conduct such public hearings as may be required to gather information necessary for the drafting, establishment and maintenance of the comprehensive plans. Before recommending any such plans to the board of commissioners, the planning board shall hold at least one (1) public hearing thereon.

(B) The planning board shall have power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may determine.

**§32.53 THE PLANNING BOARD FUNCTION
AS THE ZONING BOARD OF ADJUST-
MENT.**

The Zoning Board of Adjustment is charged with hearing appeals from the Zoning Administrators decisions, granting in specified circumstances special exceptions, special use permits, or conditional use permits under the rezoning ordinance, and issuing variances under the zoning ordinance, all pursuant to provisions of Part Three (3) of Article Nineteen (19) of Chapter 160A of the North Carolina General Statutes and the Town of Cooleemee Zoning Ordinance.

§32.54 CONFLICTS.

That all ordinances, or parts of ordinances, in conflict with this ordinance are hereby repealed to the extent of such conflict.

§32.55 VALIDITY.

That should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the ordinance in its entirety or any part thereof other than the part so declared to be unconstitutional or invalid.

§32.56 EFFECTIVE DATE.

That this chapter shall be effective from and after its passage the 15th day of June 2004.

(Amended Ord. Passed: 4-04-06)

CHAPTER 33: EMPLOYEE REGULATIONS

§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.

§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 or 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.

§33.03 TRAVEL EXPENSES.

- (A) *Purpose.* The purpose of this policy is to establish a uniform procedure for requesting and reimbursing travel expenses.
- (B) *Payment of expenses.*
 - (1) *Transportation expenses.* Town vehicles should be used for travel inside the state whenever possible. Town vehicles may be used outside the state with the permission of the Mayor. Reimbursement for the use of private cars will be at the rate per mile set by the Town Board of Commissioners.
 - (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) *Procedures for reimbursement approval.*

- (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 Town Clerk.
- (2) Checks will be issued for travel reimbursement at the same time all other checks are prepared each month; per the cash management plan, checks should be prepared biweekly as discussed in §34.20 of this code.

Cross-reference:

Cash Management and Investment Plan, see §§34.15-34.21

CHAPTER 34: FINANCE AND REVENUE; TAXATION

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

Statutory reference:

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

§34.02 PURCHASING AGENT.

- (A) The Town Clerk shall serve as purchasing agent.
- (B) As the purchasing agent, the Clerk shall:

- (1) Make or approve all purchases of material, equipment, and supplies authorized by the Town Board of Commissioners;
- (2) Establish sets of standards and specifications to control purchases by the town;
- (3) Prepare and publish specifications and notices to bidders;
- (4) Advise the Board as to anticipated needs for purchases and make purchases in advance of needs as authorized by the Board;
- (5) Store material, equipment, and supplies in advance of actual need;
- (6) Keep records of all purchases made and of the destination or ultimate use of the material, equipment, and supplies; and
- (7) Cause to be kept an inventory of all town property and add items as acquired.

Cross-reference:

Town Clerk, see §31.15

§34.03 PURCHASING ORDER.

- (A) Before any order is given for items to be paid by the town or any purchase made by a town employee, a purchasing order must first be obtained from the Town Clerk.
- (B) Any town employee purchasing goods without a purchase order from the Clerk will be held responsible for the cost of the goods.

§34.04 UNPAID TAXES THAT ARE LIENS ON REAL PROPERTY.

- (A) On the second Monday in February in each year, each County 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 those tax liens.
- (B) (1) The County Tax Collector shall advertise municipal tax liens by posting a notice of the liens at the County Courthouse and by publishing each lien at least one time in one or more newspapers having general circulation in the taxing unit.
- (2) 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.

CASH MANAGEMENT AND INVESTMENT PLAN

§34.15 CASH MANAGEMENT PLAN ESTABLISHED.

- (A) The Town Board of Commissioners hereby adopts the Cash Management and Investment Plan. 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 or she shall report his or her 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 wilful or continued failure to do so is sufficient cause for immediate dismissal from municipal 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.

§34.16 CASH RECEIPTS; DEPOSITS.

The Finance Officer shall devise and implement a banking system for the town. The system shall include appropriate investment accounts and also a checking account for all funds.

§34.17 BANKING RELATIONS.

- (A) Should the value of the town's demand and the federal deposit insurance time deposits exceed the 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 bank accounts as designated by the Town Board of Commissioners. The Board 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.

§34.18 ILLING RECEIPTS; PROCEDURES.

Receipts from services such as park fees, swimming lessons, tennis courts, zoning permits, cemetery fees, and the like, shall be delivered to the Finance Officer daily with appropriate reports verifying cash receipts.

§34.19 INVESTMENTS.

- (A) Monies shall be deposited into the appropriate investment accounts at the bank no later than 2 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% vested at all times with the exception of monies transferred to the checking account and monies held out for petty cash and change purposes. (One-hundred percent 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 United States Government, such as treasury bills, bonds, and notes, time deposits with any bank or savings and loan 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 Town Board of Commissioners.

- (D) Collateralization for deposits shall be in accordance with 20 NCAC 07. All deposits for the town shall be fully protected through deposit insurance and collateral securities pursuant to 20 NCAC 07. 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 the deposits. All escrow agreements shall be executed between the depository and the escrow agent as found in 20 NCAC 07.
- (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.

§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).
- (B) To create the maximum amount of funds available for investment, the Finance Officer shall pay the obligations of the town biweekly. 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.
- (C) 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.

- (D) The Finance Officer shall mail all checks after 12 upon provided the afternoon mailing will not result in missing the discount or payment due date.
- (E) The Finance Officer shall issue payroll checks bi-weekly. In addition, the Finance Officer shall submit payroll taxes on the due date.
- (F) 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.

PURCHASING PROCEDURES

§34.35 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.

§34.21 REPORTS OF PLAN.

- (A) The Finance Officer shall report monthly to the Town Board concerning the actual receipts and disbursements. Any overages or shortages shall be explained.
- (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 Town Board 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 Town Board 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 Town Board any deviations from the cash management plan and efforts undertaken to ensure that these deviations do not reoccur.

Cross-reference:

Minority business development, See §35.02

§34.36 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 these 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.

§34.37 EXCEPTIONS TO BID PROCEDURES.

Neither formal nor informal bid procedures will be followed in the following cases:

- (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;

§34.41 PUBLICATION OF BIDS.

(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 contraction project, the 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.

Pursuant to a resolution by the Town 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. This 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 Town Board of Commissioners the right to reject any and all bids.

§34.38 DEPOSITS ON CONTRACTS.

The town may require a deposit of 5% on all contracts that exceed \$50,000. The Town Clerk shall certify that these deposits have been obtained before contracts are awarded.

§34.39 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 fewer 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.

§34.40 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 or her deposit returned. This request must be made before the contract is awarded and within 72 hours after the bids are opened. The Town 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.

CHAPTER 35: TOWN POLICIES

GENERAL PROVISIONS

§35.01 TOWN LIABILITY.

- (A) As resolved by the Town Board of Commissioners, 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 that 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 Town Board for payment of claims or judgments in addition to any insurance coverage or any combination of this type of 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 self-indulgence substantially impaired his or her 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 case of emergencies or the existence of extenuating circumstances, directly contrary to instructions from his or her superior, or directly contrary to advice of the Town Attorney; or
- (4) Acts or fails to act in such a manner as to constitute a criminal act (as, for example, misappropriation of property or funds).
- (C) The Mayor or his or her designee shall determine whether or not a claim or suit filed against an officer or employee meets the requirements specified herein for providing a defense for that officer or employee. If the Mayor or 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 Town 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.
- (D) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.
- OFFICER and EMPLOYEE.** Present or past Mayors and members of the Town Board, 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.
- (E) The policies specified herein shall not be applicable unless notice of the claim or suit is given to the Town 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.

- (F) 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.

§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. §143-128.2.
- (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 this type of 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.
- (D) For each building contract put out for bids under the separate specification system or the single prime contract system, notice of the contract shall be transmitted to minority businesses on the above list.

- (E) For each building contract put out for bids under the separate specification or single prime contract system, 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 building contract put out for bids under the separate specification or single prime contract system, 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 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 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 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; and

(2) Submit with his or her 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 building contract, and non-compliance by any single prime bidder shall be grounds for declaring the bid non-responsive.

Cross-reference:

Purchasing Procedures, see §§34.35 through 34.41

§35.03 DISPOSAL OF PERSONAL PROPERTY.

(A) The Town Board is hereby authorized pursuant to G.S. §160A-266(c), to dispose of any surplus personal property owned by the town, whenever it determines, in its discretion, that:

(1) The item or group of items has a fair market value of less than \$5,000;

(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 Town Board may dispose of any surplus personal property by any means which it 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. 160A-265 et seq. The sale may be public or private, and with or without notice and minimum waiting period.

(C) (1) 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 Public Utilities is hereby authorized to execute and deliver any applicable title documents.

(2) 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.

(3) No surplus property may be donated to any individual or organization except by resolution of the Town Board of Commissioners.

(D) The Superintendent of Public Utilities shall on or before February 1, report in writing to the Town 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 Town Board 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 whom it was sold or with whom it was exchanged, and the amount of money or other consideration received, for each sale or exchange since the last report was submitted.

or hereafter owned or leased by the town when the vehicle is occupied by someone other than a town employee. Smoking is not prohibited at other times.

- (D) *Penalty.* Violation of this section shall constitute a misdemeanor punishable in accordance with G.S. §14-4.

(Ord. 24, passed 9-13-93) Penalty, see §10.99

Statutory reference:

Authority to protect employee and public health, safety, and welfare, see G.S. §160A-174.

§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 the 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.

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;
- (C) Recreational programs;
- (D) Festivals and celebrations;
- (E) Class reunions, family reunions, religious events, weddings, parties, and club or organization meetings;
- (F) Events honoring or recognizing persons or organizations
- (G) Non-commercial promotional activities;
- (H) Non-commercial fundraising functions; or
- (I) Any activity similar in nature to those listed in divisions (A) through (H) of this section.

§35.05 SMOKING RESTRICTED IN TOWN BUILDINGS AND VEHICLES.

- (A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

SMOKING. The inhaling, exhaling, burning, or carrying of a lighted pipe, cigar, cigarette, or other combustible tobacco product.

- (B) *Smoking prohibited in municipal buildings.* It shall be unlawful for any person to smoke in the Town Hall.
- (C) *Smoking in municipal vehicles.* It shall be unlawful for any person to smoke in any vehicle now

§35.16 CONDITIONS FOR ISSUANCE OF PERMIT.

- (A) The Town Clerk shall not issue a permit for the use of town-owned property unless the person or organization seeking the use of town-owned property or part thereof shall first make written application to the Clerk. The written application shall be filed with the Clerk at least 15 days before the proposed date of the special event. The Clerk shall provide a form for making an application. The Town Clerk may issue a permit if the Clerk finds:
 - (1) The proposed use of town-owned property or part thereof will not unreasonably interfere with the normal activities of surrounding residents, businesses, or institutions;
 - (2) Neither the proposed use nor the anticipated noise level arising from that use will have an unreasonably adverse effect upon surrounding residents, businesses, or institutions;
 - (3) The pedestrian and motor vehicle traffic generated by the proposed use can be accommodated reasonably and safely on the streets and walkways of the area surrounding the town-owned property or portion thereof;
 - (4) Adequate security and crowd control can be provided by the Police Department;
 - (5) Adequate fire control and fire prevention service can be provided by the Volunteer Fire Department;
 - (6) The applicant has obtained liability insurance coverage as may be required for this type of event or filed a hold harmless waiver agreement with the Town Clerk; and
 - (7) The applicant has paid the required fee as set by the Town Board of Commissioners.
- (B) Applications for a special events permit shall be filed with the Town Clerk not later than 15 days before the proposed date of the event. The permit shall be granted or denied within 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 the person requests an informal hearing not later than three days after the denial.

- (C) Any person aggrieved by a decision of the Mayor may appeal that decision to the Town Board of Commissioners by giving notice for the appeal in writing to the Town Clerk on a form prescribed by the town not later than three days after the decision. The appeal shall be set for a hearing before the Town Board 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.

§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; or
 - (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.

§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.

Penalty, see §10.99

§35.19 PARKS AND RECREATION.

- (A) In order to enforce regulations at the Towns recreation park and playgrounds located on the

towns property the following is effective: no littering allowed, no profanity allowed, no dogs nor any other animals (whether on leash or not) are permitted to enter the grounds enclosed by the park gates, no bicycles allowed, no alcoholic beverages allowed, no drugs allowed, no vandalism allowed and no admittance allowed to the park after dark.

- (B) Any person, firm or corporation violating the provisions of this section shall pay a civil penalty in the amount of \$50.00 to the Town Clerk within 15 days after issuance of a citation. Any unpaid civil penalties shall be collected by means of a civil action in the nature of a debt.
- (C) The above provisions apply to all property owned and used by the Town of Cooleemee as parks and playgrounds, except the property owned by the Town which is commonly referred to as the Riverpark at Cooleemee Falls. See Title XIII, General Offenses, Chapter 130, Offenses Against Municipal Regulations, Section 130.11, for rules and regulations as they apply to the Riverpark at Cooleemee Falls.

(Ord. passed 5-6-02; Am. Ord. passed 3-17-09)

CHAPTER 36: TOWN EMERGENCIES

Statutory reference:

Authority to enact ordinances to deal with states of emergency, see G.S. 14-288.12

Counties, see G.S. Chapter 153A-1 et seq.

State Emergency Management Act of 1977, see G.S. Chapter 166A

GENERAL PROVISIONS

§36.01 STATE OF EMERGENCY; AUTHORITY OF MAYOR.

(A) A state of emergency shall be deemed to exist whenever during times of public crisis, disaster, rioting, catastrophe, or similar public emergency, for any reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety, or property, or whenever the occurrence of any such condition is imminent.

(B) 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 any part thereof, or threatening damages to or destruction of property, the Mayor of the town is hereby authorized and empowered under G.S. §§14-288.12 and 166A-8 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.

(C) The Mayor is hereby empowered to limit by the proclamation the application of all or any part of these restrictions to any area specifically designated or described within the town and to specific hours of the day or night; and to exempt from all or any part of these restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firefighters, and other public employees; rescue squad members, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel, whether state or federal; authorized and 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 people within the town.

(Ord. 19, passed 1-9-89) Penalty, see §36.99

§36.02 PROCLAMATION IMPOSING PROHIBITIONS AND RESTRICTIONS.

(A) The Mayor of the town by proclamation may impose the prohibitions and restrictions specified in §§36.20 through 36.25 of this code of ordinances in the manner described in those sections. The Mayor may impose as many of those specified prohibitions and restrictions as he or she finds are necessary, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety, and property.

The Mayor shall recite his or her findings in the proclamation.

forth in §36.02 for proclamations.
(Ord. 19, passed 1-9-89)

(B) The proclamation shall be in writings The Mayor shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in the County Courthouse and in public places within the town. The Mayor shall as soon as possible send reports of the substance of the proclamation to the Chairperson of the County Board of Commissioners, or designee; and to the mass communications media which serves the affected area.

§36.06 AUTHORITY IN ABSENCE OR DISABILITY OF MAYOR.

In case of the absence or disability of the Mayor, the Mayor Pro Tem, or other person as may be designated by the Town Board, shall have and exercise all of the powers herein given the Mayor.
(Ord. 19, passed 1-9-89)

(C) The Mayor shall retain the text of the proclamation and furnish upon request certified copies of it.

§36.47 TERRITORIAL APPLICATION.

This chapter shall apply only within the corporate limits of the municipality, or within any area over which the municipality has jurisdiction to enact general police power ordinances.
(Ord. 19, passed 1-9-89)

(Ord. 19, passed 1-9-89) Penalty, see §36.99

§36.03 REMOVAL OF PROHIBITIONS AND RESTRICTIONS.

The Mayor shall by proclamation terminate the entire declaration of emergency or remove any of the prohibitions and restrictions when the emergency no longer requires them, or when directed to do so by the Town Board.

AUTHORIZED PROHIBITIONS AND RESTRICTIONS

(Ord. 19, passed 1-9-89)

§36.20 EVACUATION.

§36.04 SUPERSEDING AND AMENDATORY PROCLAMATIONS.

The Mayor in his or her discretion may invoke the restrictions authorized by this chapter in separate proclamations, and may amend any proclamation by means of a superseding proclamation in accordance with the procedures set forth in §36.02 above.

The Mayor may direct and compel the evacuation of all or part of the population of the town; prescribe routes, modes of transportation, and destination in connection with evacuation; and control ingress and egress of a disaster area, the movement of persons within the area, and the occupancy of premises therein. Details of the evacuation may be set forth or amended in a subsequent proclamation which shall be well publicized.

(Ord. 19, passed 1-9-89)

(Ord. 19, passed 1-9-89) Penalty, see §36.99

§36.05 TERMINATION OF PROCLAMATION.

Any proclamation issued under this chapter shall expire five days after its last imposition unless sooner terminated in writing under the same procedures set

§36.21 CURFEW.

(A) (1) The proclamation may impose a curfew prohibiting in certain areas and during certain periods the appearance in public of

anyone who is not a member of an exempted class. The proclamation shall specify the geographical area or areas and the period during each 24-hour day to which the curfew applies.

- (2) The Mayor may exempt from some or all of the curfew restrictions classes of people whose exemption the Mayor finds necessary for the preservation of the public health, safety, and welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

- (B) Unless otherwise specified in the proclamation, the curfew shall apply during the specified period each day until the Mayor by proclamation removes the curfew.

(Ord., 19, passed 1-9-89) Penalty, see §36.99

§36.22 RESTRICTIONS ON ALCOHOLIC BEVERAGES.

The proclamation may prohibit the possession or consumption of any alcoholic beverage, including beer, wine, and spirituous liquor other than on one's own premises, and may prohibit the transfer, transportation, sale, or purchase of any alcoholic beverage within the town. The prohibition, if imposed, may apply to transfers of alcoholic beverages by employees of Alcoholic Beverage Control stores as well as by anyone else within the geographical area described.

(Ord. 19, passed 1-9-89) Penalty, see §36.99

§36.23 RESTRICTIONS ON DANGEROUS WEAPONS AND SUBSTANCES.

- (A) (1) The proclamation may prohibit the transportation or possession off one's own premises, or the sale or purchase of any dangerous weapon or substance.
- (2) The Mayor may exempt from some or all of these restrictions classes of people whose possession, transfer, or transportation of certain dangerous weapons or substances is

necessary to the preservation of the public's health, safety, or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

- (B) For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

DANGEROUS WEAPON OR SUBSTANCE

- (1) Any deadly weapon, ammunition, explosive, incendiary device, radioactive material or device as defined in G.S. §14-288.8(c)(5), gasoline, or other instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property;
 - (2) Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that the instrument or substance will be so used; or
 - (3) Any part or ingredient in any instrument or substance included above when the circumstances indicate a probability that the part or ingredient will be so used.
- (C) If imposed, the restrictions shall apply throughout the jurisdiction of the town or part thereof as designated in the proclamation.

(Ord. 19, passed 1-9-89) Penalty, see §36.99

§36.24 RESTRICTIONS ON ACCESS TO DESIGNATED AREAS.

- (A) The proclamation may prohibit obtaining access or attempting to obtain access to any area designated in the manner described in this section, in violation of any order, clearly posted notice, or barricade indicating that access is denied or restricted.

- (B) Areas to which access is denied or restricted shall be designated by the Police Chief and his or her subordinates or other law enforcement officer when directed in the proclamation to do so by the Mayor. When acting under this authority, law enforcement officers may restrict or deny access to any area, street, highway, or location with the town if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.

(Ord. 19, passed 1-9-89) Penalty, see §36.99

§36.25 RESTRICTIONS TO MAINTAIN ORDER AND SAFETY.

The proclamation may prohibit or restrict:

- (A) Movements of people in public places;
- (B) The operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate; and
- (C) Other activities or conditions, the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency, within the area designated in the proclamation.

(Ord. 19, passed 1-9-89) Penalty, see §36.99

§36.99 PENALTY.

- (A) Except as provided in division (B) of this section, any person violating any prohibition or restriction imposed by a proclamation authorized by this chapter shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding \$50 or imprisonment not exceeding 30 days, as provided by G.S. §14-4.
- (B) A violation of §36.23 of this code shall be punishable as provided in G.S. §14-288.7.

(Ord. 19, passed 1-9-89)

APPENDIX: PROCLAMATION FORMS

(A) Proclamation of a state of emergency.

**TOWN OF COOLEEMEE
PROCLAMATION OF A STATE OF EMERGENCY**

Section 1. Pursuant to Chapter 166A of the General Statutes and Chapter 14, Article 36A of the General Statutes, I have determined that a state of emergency as defined exists in the Town of Cooleemee.

Section 2. I, therefore, proclaim the existence of state of emergency in the Town of Cooleemee.

Section 3. I hereby order all law enforcement officers and employees, and all other emergency management workers subject to my control, to cooperate in the enforcement and implmenetation of the provisions of the town emergency ordinances which are set forth below.

Section 4. **Evacuation.** I have determined that, in the best interest of public safety and protection, it is necessary to evacuate the civilian population from the _____ areas of the Town of Cooleemee. Citizens are free to use any type of transportation, by they are only to use (routes): _____ in leaving the county. Evacuation is to occur as soon as possible. Further proclamation concerning evacuation will be issued as needed.

Section 5. **Curfew.** Unless a member of a law enforcement agency or the emergency management program, every person who is located within the Town of Cooleemee is to be inside a house dwelling from the hours _____ to _____.

Section 6. **No Alcoholic Beverages.** There shall be no sale, consumption, transportation, or possession of alcoholic beverages during the state of emergency in the Town of Cooleemee, except possession or consumption is allowed on a person's own premises.

Section 7. **No Firearms, Ammunition, or Explosives.** During the state of emergency, there shall be no sales or purchase of any type of firearm or ammunition, or any possession of such items along with any type of explosive off the owner's own premises.

Section 8. **Restrictions on Access to Areas.** During the state of emergency, there shall be no access or attempting to obtain access to any area which has been barricaded, or otherwise clearly posted indicating that access is denied or restricted by law enforcement officers.

Section 9. **Execution of Emergency Plan.** All civilians and emergency management workers are ordered to comply with the Emergency Operations Plan.

Section 10. This proclamation shall become effective immediately. Proclaimed this the _____ day of _____, 20____, at ____:____ a.m./p.m.

Mayor, Town of Cooleemee

(B) Proclamation terminating a state of emergency.

TOWN OF COOLEEMEE
PROCLAMATION TERMINATING A STATE OF EMERGENCY

Section 1. On _____, at ____:____ a.m./p.m., I determined and proclaimed a local state of emergency for the Town of Cooleemee.

Section 2. On _____, at ____:____ a.m./p.m., I ordered the evacuation of all civilians from the area; imposed a curfew; prohibited the sale, consumption, transportation, or possession of alcoholic beverages; prohibited the sale or purchase of any type of firearm or ammunition, or possession of firearms, ammunition, and explosives; restricted access to areas; and ordered the execution of the Emergency Operations Plan.

Section 3. I have determined that a state of emergency no longer exists in the Town of Cooleemee.

Section 4. I therefore terminate the proclamation of a local state emergency and all of the restrictions and orders therein.

Section 5. This proclamation is effective immediately. Proclaimed this the _____ day of _____, 20____, at ____:____ a.m./p.m.

Mayor, Town of Cooleemee

(Ord. passed 1-9-89)