

TITLE III: ADMINISTRATION

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CHAPTER 30: TOWN COUNCIL

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Cross-reference:

Pursuant to G.S. " 160A-101 and 160A-102, the Charter of the Town of Haw River, as set forth in Chapter 234 of the 1973 Session Laws of North Carolina, as amended, is hereby further amended to provide that the town shall operate under the Council-Manager form of government in accordance with G.S. Ch. 160A, Art. 7, part 2 and any charter provisions not in conflict therewith, see Charter ' 3

MEETINGS

' 30.01 REGULAR AND SPECIAL MEETING.

(A) The Town Council shall hold regular monthly meetings on the first Monday of each month at 7:30 p.m. in the town hall unless otherwise designated by the Town Council.

(B) The Mayor, the Mayor Pro Tempore, or any two members of the Town Council may at any time call a special Town Council meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the Mayor and each Council Member or left at his or her usual dwelling place at least six hours before the meeting. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or have signed a written waiver of notice. A person or persons calling a special meeting of Town Council shall also comply with the notice requirements of G.S. Ch. 143, Art. 33C.

(1) Special meetings may be held at any time when the Mayor and all members of the Town Council are present and consent thereto, or when those not present have signed a written waiver of notice.

(2) During any regular meeting or any duly-called special meeting, the Town Council may call or schedule a special meeting, provided the motion or resolution calling or scheduling any special meeting shall specify the time, place, and purpose or purposes of the meeting and shall be adopted during an open session.

(C) Any regular or duly-called special meeting may be recessed to reconvene at a time and place certain, or may be adjourned to reconvene at a time and place certain, by the Town Council.

(G.S. ' 160A-71 (b)) (>87 Code, ' 30.01) (Ord. passed 1-7-74)

' 30.02 QUORUM.

(A) A majority of the actual membership of the Town Council plus the Mayor, excluding vacant seats, shall constitute a quorum. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

(G.S. ' 160A-74)

(B) If a quorum shall fail to attend any regular or special meeting of the Town Council or if, for any reason, the meeting shall fail to complete transaction of the business before the meeting, the meeting may be adjourned to any date prior to the next regular meeting agreed upon by a majority of the members present.

(>87 Code, ' 30.02) (Ord. passed 1-7-74)

' 30.03 PRESIDING OFFICER.

Town Council meetings shall be public and the Mayor, if present, shall preside. In the absence of the Mayor, the Mayor Pro Tempore of the Town Council shall preside. In the absence of both, the Town Council may elect from its members a temporary chairman to preside in such absence.

(>87 Code, ' 30.03) (Ord. passed 1-7-74)

Statutory reference:

Presiding Officer, see G.S. " 160A-69 and 160A-70

' 30.04 RULES OF PROCEDURE.

Except as otherwise provided by ordinance, the procedure of the Town Council shall be governed by the latest edition of *Robert's Rules of Order*.
(>87 Code, ' 30.04) (Ord. passed 1-7-74)

' 30.05 ORDER OF BUSINESS.

(A) At all regular and special meetings of the Town Council, the following shall be the order of business:

(1) Reading and approval of the minutes of the last regular and special meetings, if any, unless otherwise dispensed with by unanimous consent.

(2) Reports of special committees.

(3) Reports of officers.

(4) Communications and petitions.

(5) Motions, resolutions, and ordinances.

(B) If the Town Council directs any matter to be the special business of a future meeting, the same shall have precedence over all other business arising at the meeting. Any question discussed at a previous meeting and left open may be taken up at any time at any regular meeting at the request of a majority of the members present.

(>87 Code, ' 30.05) (Ord. passed 1-7-74)

' 30.06 MOTIONS HAVING PRECEDENCE.

(A) When a question is under consideration, no motion shall be received, except as follows:

(1) To lie on the table.

(2) To postpone to a time certain.

(3) To postpone indefinitely.

(4) To refer to a committee.

(5) To amend.

(6) To strike out or to insert.

(7) To divide.

(B) Motions for any of these purposes shall have precedence in the order so named.
(>87 Code, ' 30.06) (Ord. passed 1-7-74)

' 30.07 PREVIOUS QUESTION.

The previous question may be called at any time by a majority of the Council Members present.
(>87 Code, ' 30.07) (Ord. passed 1-7-74)

' 30.08 CALL FOR VOTE.

Pursuant to G.S. ' 160A-72, the ayes and nays upon any question shall be taken upon the request of any Council Member.
(>87 Code, ' 30.08) (Ord. passed 1-7-74)

' 30.09 MAYOR TO VOTE.

The Mayor shall vote on all matters before the Town Council, pursuant to section 3 of the Town Charter and G.S. ' 160A-101 (8).
(>87 Code, ' 30.09)

' 30.10 MOTION TO ADJOURN.

A motion to adjourn shall always be in order and shall be decided without debate.
(>87 Code, ' 30.10) (Ord. passed 1-7-74)

' 30.11 COMMITTEES.

The Mayor and Council Members may create those committees of the Town Council for special purposes as they deem best.
(>87 Code, ' 30.11) (Ord. passed 1-7-74)

ORDINANCES

' 30.25 EFFECTIVE DATE.

All ordinances shall be effective upon their adoption except ordinances specifying some other effective date or ordinances required by state law to become effective only after having met specific date requirements.

(>87 Code, ' 30.20) (Ord. passed 1-7-74)

' 30.26 ORDINANCES CONFINED TO ONE SUBJECT.

All ordinances shall be confined to one subject except budget ordinances, which shall be confined to the subject of budget matters.

(>87 Code, ' 30.21) (Ord. passed 1-7-74)

' 30.27 OFFICIAL COPY.

A true copy of an ordinance which has been duly enacted by the Town Council, signed by the Mayor, and attested to by the Town Administrator/Clerk shall be known as an official copy of any ordinance of the town. All ordinances or a true copy thereof shall be inserted in this code in the proper chapter.

(>87 Code, ' 30.22) (Ord. passed 1-7-74)

CHAPTER 31: TOWN OFFICIALS

Section

- 31.01 Mayor
- 31.02 Town Manager
- 31.03 Town Clerk
- 31.04 Town Attorney
- 31.05 Town Tax Collector
- 31.06 Budget Officer
- 31.07 Finance Officer
- 31.08 Other officials
- 31.09 Bond

' 31.01 MAYOR.

The citizens of the Town of Haw River shall elect the Mayor and the Town Council may adopt or amend a job description for the Mayor.

(Am. Ord. passed 5-3-10)

Cross-reference:

Pursuant to G.S. " 160A-101 and 160A-102, the Charter of the Town of Haw River, as set forth in Chapter 234 of the 1973 Session Laws of North Carolina, as amended, is hereby further amended to provide that the town shall operate under the Council-Manager form of government in accordance with G.S. Ch. 160A, Art. 7, part 2 and any charter provisions not in conflict therewith, see Charter ' 3

' 31.02 TOWN MANAGER.

(A) *Appointment.* The Town Council may appoint a Town Clerk and a Town Manager to serve at its pleasure. The Town Manager shall be appointed solely on the basis of his or her executive and administrative qualifications. The Town Manager need not be a resident of the city or state at the time of appointment. The office of Town Manager may be held concurrently with other appointive (but not elective) offices pursuant to Article VI, Section 9, of the state constitution. (G.S. ' 160A-147)

(B) *Powers and duties.* The Town Manager shall be the chief administrator of the town. The Town Manager shall be responsible to the Town Council for administering all municipal affairs placed in his or her charge by them and shall:

(1) Appoint and suspend or remove all city officers and employees not elected by the people, and whose appointment or removal is not otherwise provided for by law, except the Town Attorney, in accordance with such general personnel rules, regulations, policies, or ordinances as the Town Council may adopt.

(2) Direct and supervise the administration of all departments, offices, and agencies of the town, subject to the general direction and control of the Town Council, except as otherwise provided by law. As part of these duties, the Town Manager shall serve as Budget Officer and Finance Officer for the town.

(3) Attend all meetings of the Town Council and recommend any measures that he or she deems expedient.

(4) See that all laws of the state, the town charter, and the ordinances, resolutions, and regulations of the Town Council are faithfully executed within the town.

(5) Prepare and submit the annual budget and capital program to the Town Council.

(6) Submit to the Finance and Administration Board and Town Council and make available to the public a complete report on the finances and administrative activities of the town monthly and as of the end of the fiscal year, including an annual analysis of purchases by vendor, annual review of all contracts, leases and insurance coverages, response to the Town Auditor's management letter comments, and annual review of progress toward annual goals.

(7) Make other reports that the Town Council may require concerning the operations of town departments, offices, and agencies subject to his or her direction and control.

(8) Perform any other duties that may be required or authorized by the Town Council.
(G.S. ' 160A-148) (Am. Ord. passed 5-3-10)

' 31.03 TOWN CLERK.

The Town Clerk shall maintain all records as required by state law, post copies of all agenda, minutes, budgets, and financial reports, plus other important notices and documents as the Council may authorize, and perform such other duties as the Town Council may be required from time to time.
(Am. Ord. passed 5-3-10)

Statutory reference:

Establishment of office, G.S. ' 160A-171

' 31.04 TOWN ATTORNEY.

(A) The Town Council shall appoint a Town Attorney to serve at its pleasure and to be its legal advisor.

(B) It shall be the duty of the Town Attorney to:

(1) Prosecute for and defend suits against the town.

(2) Advise the Mayor, Town Council, or any other officer of the town in regard to matters connected with the town's business.

(3) Attend meetings of the Town Council when requested to do so by them.

(4) Draw such deeds, contracts, bonds, notes, and other legal papers as may be required for the proper conduct of the town's business.

(5) Draft all ordinances.

(6) Approve all ordinances as to form before their introduction.

(7) Perform such other duties as may be assigned to him or her by state law or by the Town Council acting pursuant to state law.

(>87 Code, ' 31.03) (Am. Ord. passed 5-3-10)

Statutory reference:

Town Attorney, see G.S. ' 160A-173

' 31.05 TOWN TAX COLLECTOR.

(A) *Appointment and term.* The Town Council shall appoint a Tax Collector to serve for a term to be determined by the Town Council and until his or her successor has been appointed and qualified. The Town Council may remove the Tax Collector from office during his or her term for good cause after giving him or her notice in writing and an opportunity to appear and be heard at a public session of the Town Council. No hearing shall be required, however, if the Tax Collector is removed for failing to meet the prerequisites prescribed by G.S. ' 105-352(b) for delivery of the tax receipts. Unless otherwise provided by G.S. ' 105-373, whenever any vacancy occurs in this office, the Town Council shall appoint a qualified person to serve as Tax Collector for the period of the unexpired term.

(B) *Qualifications.* The Town Council shall appoint as Tax Collector a person of character and integrity whose experience in business and collection work is satisfactory to the Town Council.

(C) *Bond.* No Tax Collector shall be allowed to begin his or her duties until he or she has furnished bond conditioned upon his or her honesty and faithful performance in an amount as the Town Council may prescribe. A Tax Collector shall not be permitted to collect any taxes not covered by his or her bond, nor shall a Tax Collector be permitted to continue collecting taxes after his or her bond has expired without renewal.

(D) *Compensation.* The compensation and expense allowances of the Tax Collector shall be fixed by the Town Council.

(E) *Alternative to separate office of Tax Collector.* Pursuant to the North Carolina Constitution, Art. VI, Sec. 9, the office of Tax Collector is hereby declared to be an office that may be held concurrently with any appointive or elective office other than those hereinafter designated, and the Town Council may appoint as Tax Collector any appointive or elective officer who meets the personal and bonding requirements established by this section. However, a member of the Town Council may not be appointed Tax Collector, nor may the duties of the office be conferred upon him or her. Further, the Town Administrator/Clerk may not be appointed Tax Collector, nor may the duties of the office of Tax Collector be conferred upon him or her, except with the written permission of the state.

(F) *Oath.* Every Tax Collector shall take and subscribe the oath set out in G.S. ' 105-349(g), and file it with the Town Clerk.

(G) *General duties of the Tax Collector.* The Tax Collector shall perform those duties set forth in G.S. ' 105-350.
(>87 Code, ' 31.04) (Am. Ord. passed 5-3-10)

' 31.06 BUDGET OFFICER.

The Town Manager shall fulfill the duties of the Budget Officer, as set forth in G.S. ' 159-9.
(>87 Code, ' 31.05) (Am. Ord. passed 5-3-10)

' 31.07 FINANCE OFFICER.

The Town Manager shall fulfill the duties of the Finance Officer, as set forth in G.S. ' 159-24.
(>87 Code, ' 31.06) (Am. Ord. passed 5-3-10)

' 31.08 OTHER OFFICIALS.

Those other officers and employees that are deemed necessary shall be appointed by the Town Manager. All officers and employees shall serve at the pleasure of the Town Manager and shall receive compensation as from time to time may be prescribed by the Town Council.

(>87 Code, ' 31.07) (Ord. passed 1-7-74; Am. Ord. passed 5-3-10)

' 31.09 BOND.

The Town Manager and other officers and employees required by the Town Council shall, before entering upon their duties, post bond in amounts specified by the Town Council. All bond premiums shall be paid from town funds. When two offices are combined, only one bond shall be required.

(>87 Code, ' 31.08) (Ord. passed 1-7-74; Am. Ord. passed 5-3-10)

CHAPTER 32: DEPARTMENTS, BOARDS, AND COMMISSIONS

Section

Beautification Commission

- 32.01 Establishment; members
- 32.02 Compensation
- 32.03 Powers and duties

Board of Adjustment

- 32.15 Creation; members
- 32.16 Organization; officers; meetings
- 32.17 Powers and duties

Building Inspection Department

- 32.30 Establishment

Planning Board

- 32.45 Creation
- 32.46 Membership; term; removal
- 32.47 Organization and rules
- 32.48 Duties and powers

Recreation and Parks Advisory Committee

- 32.60 Title
- 32.61 Membership
- 32.62 Business year
- 32.63 Powers and duties
- 32.64 Officers
- 32.65 Meetings
- 32.66 Subcommittees

Cross reference:

Fire and Police Departments, see Ch. 33

BEAUTIFICATION COMMISSION**' 32.01 ESTABLISHMENT; MEMBERS.**

(A) By virtue of the authority granted by G.S. ' 160A-451 et seq., a commission is hereby created to be known as the Haw River Beautification Commission.

(B) The Beautification Commission shall consist of eight members to be appointed by the Town Council. The members shall be residents of the area of the town's planning and zoning jurisdiction at the time of their appointment. Initially, the Town Council shall appoint four members to serve for a term of two years and four members to serve for a term of one year. Thereafter, the Town Council shall make appointments for terms of two years, except in those instances where the Town Council shall make interim appointments to fill vacancies for unexpired portions of terms of the members of the Beautification Commission. The Town Council shall give appropriate priority in the appointments with a view to maintaining on the Beautification Commission a majority of members who have had special training or experience in a design field, such as architecture, landscape design, horticulture, city planning, or a related field. Membership on the Beautification Commission is declared to be an office that may be held concurrently with any other elective or appointive office.

(>87 Code, ' 32.001) (Ord. passed 8-7-78)

' 32.02 COMPENSATION.

Members of the Beautification Commission may be reimbursed for actual expenses incidental to the performance of their duties within the limits of any funds available to the Beautification Commission, but shall otherwise serve without pay.

(>87 Code, ' 32.002) (Ord. passed 8-7-78)

' 32.03 POWERS AND DUTIES.

(A) *General powers and duties.* The Beautification Commission, upon its appointment, shall make careful study of the visual problems, make any plans, and carry out any programs that will, in accordance with the powers herein granted, enhance and improve the visual quality and aesthetic characteristics of the town. To this end, the Town Council may confer upon the Beautification Commission the following powers and duties:

(1) Initiate, promote, and assist in the implementation of programs of general community beautification in the town.

(2) Seek to coordinate the activities of individuals, agencies, and organizations, public and private, whose plans, activities, and programs bear upon the appearance of the town.

(3) Provide leadership and guidance in matters of area or community design and appearance to individuals, public and private organizations, and agencies.

(4) Make studies of the visual characteristics and problems of the town, including surveys and inventories of an appropriate nature, and recommend standards and policies of design for the entire area, any portion or neighborhood thereof, or any project to be undertaken.

(5) Prepare both general and specific plans for the improved appearance of the town. These plans may include the entire area or any part thereof and may include private as well as public property. The plans shall set forth desirable standards and goals for the aesthetic enhancement of the town or any part thereof within its area of planning and zoning jurisdiction, including public ways and areas, open spaces, and public and private buildings and projects.

(6) Participate in any way deemed appropriate by the Town Council and specified in this subchapter in the implementation of its plans. To this end, the Town Council includes in this section the following powers:

(a) To request from the proper officials of any public agency or body, including agencies of the state and its political subdivisions, its plans for public buildings, facilities, or projects to be located within the town or its area of planning and zoning jurisdiction of the town or county.

(b) To review these plans and to make recommendations regarding their aesthetic suitability to the appropriate agency or to the Town Council. All plans shall be reviewed by the Beautification Commission in a prompt and expeditious manner, and all recommendations of the Beautification Commission with regard to any public project shall be made in writing. Copies of the recommendations shall be transmitted promptly to the Town Council and to the appropriate agency.

(c) To formulate and recommend to the Town Council the adoption or amendment of ordinances, including zoning ordinances, subdivision regulations, and other local ordinances regulating the use of property, that will in the opinion of the Beautification Commission serve to enhance the appearance of the town and surrounding areas.

(d) To direct the attention of town or county officials to needed enforcement of any ordinance that may in any way affect the appearance of the town or county.

(e) To seek voluntary adherence to the standards and policies of its plans.

(f) To enter, in the performance of its official duties and at reasonable times, upon private lands and make examinations or surveys.

(g) To promote public interest in and an understanding of its recommendations, studies, and plans, and to that end to prepare, publish, and distribute to the public those studies and reports as will in the opinion of the Beautification Commission advance the cause of improved town appearance.

(h) To conduct public meetings and hearings, giving reasonable notice to the public thereof. (G.S. ' 160A-452)

(B) *Receipt and expenditure of funds.* The Beautification Commission may receive contributions from private agencies, foundations, organizations, individuals, the state or federal government, or any other source, in addition to any sums appropriated for its use by the Town Council. It may accept and disburse these funds for any purpose within the scope of its authority as herein specified. All sums appropriated by the Town Council to further the work and purposes of the Beautification Commission are deemed to be for a public purpose. (G.S. ' 160A-455)

(C) *Staff or technical services.* The Beautification Commission may recommend to the Town Council suitable arrangements for the procurement or provision of staff or technical services for the Beautification Commission, and the Town Council may appropriate that amount as it deems necessary to carry out the purposes for which the Beautification Commission was created. The Beautification Commission may establish an advisory council or other committees. (G.S. ' 160A-453)

(D) *Annual report.* The Beautification Commission shall, no later than April 15 of each year, submit to the Town Council a written report of its activities, a statement of its expenditures to date for the current fiscal year, and its requested budget for the next fiscal year. All accounts and funds of the Beautification Commission shall be administered substantially in accordance with the requirements of the Municipal Fiscal Control Act. (G.S.' 160A-454)
(>87 Code, ' 32.003) (Ord. passed 8-7-78)

BOARD OF ADJUSTMENT

' 32.15 CREATION; MEMBERS.

(A) There shall be and is hereby created a Board of Adjustment consisting of five members.

(B) Five members shall be citizens and residents of the town and shall be appointed by the Town Council in accordance with G.S. ' 160A-362.

(C) The members of the Board of Adjustment shall receive no compensation for their services.

(D) The term of office of the members of the Board of Adjustment shall be for overlapping terms of three years. Since the Haw River Town Council has appointed itself as the Town of Haw River Board of Adjustment, members of the Council, upon being sworn in to serve a term on the Town Council, become immediately eligible to be appointed to the Board of Adjustment. Such appointments shall be for three-year terms, and a reappointment of one year to complete the four-year term to which the Town

Council is elected. Nothing herein shall be construed as to forbid any member from being reappointed. Vacancies occurring for any reason other than expiration of term shall be filled as soon as is reasonably possible after the vacancy occurs by the proper board making the appointment. Such appointment shall be for the unexpired term, or for a longer term up to three years if needed to prevent the termination of four or more terms in the same year. Members of the Board of Adjustment may be removed for cause by the Town Council upon written charges and after public hearing.

(>87 Code, ' 32.015) (Ord. passed 4-5-76; Am. Ord. passed 8-5-96; Am. Ord. passed - -15; Am. Ord. passed 12-5-16)

' 32.16 ORGANIZATION; OFFICERS; MEETINGS.

The Board of Adjustment shall elect a Chairperson and a Vice-Chairperson, each of whom shall serve for one year or until he or she is reelected or his or her successor is elected. The Board of Adjustment shall appoint a Secretary who may be an officer or an employee of the town. It shall adopt rules for the conduct of its business. Meetings shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson or, in his or her absence, the Vice-Chairperson may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board of Adjustment shall be open to the public. The Secretary shall keep minutes of the proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating this fact. The Board of Adjustment shall keep records of the examinations and other official actions, all of which shall be filed immediately in the Office of the Board of Adjustment and shall be a public record.

(>87 Code, ' 32.016) (Ord. passed 4-5-76; Am. Ord. passed 12-5-16)

' 32.17 POWERS AND DUTIES.

(A) The Board of Adjustment shall have the following powers and duties:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning regulations.

(2) (a) To authorize upon appeal in specific cases those variances from the terms of the zoning regulations as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the zoning regulations will, in an individual case, result in unnecessary hardship so that the spirit of the zoning regulations shall be observed, public safety and welfare secured, and substantial justice done, No variance shall be granted in any individual case unless the Board of Adjustment finds unnecessary hardship based upon a showing that all of the following conditions exist:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district;

2. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents in the district in which the property is located;

3. A literal interpretation of the provisions of this subchapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located;

4. The requested variance will be in harmony with purpose and intent of this subchapter and will not be injurious to the neighborhood or to the general welfare;

5. The special circumstances are not the result of actions by the applicant, excluding the act of purchasing property or properties with knowledge that circumstances exist that may justify the grant of a variance; and

6. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

(b) No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this section.

(B) In exercising the above mentioned powers, the Board of Adjustment may, in conformity with the provisions of the zoning regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination made by the zoning enforcement officer, and to that end shall have the powers of the zoning enforcement officer from whom the appeal is taken, and may issue or direct the issuance of a permit. A simple majority vote of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of an administrative official charged with the enforcement of the zoning regulations, or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance, including special and conditional uses. Matters concerning a variance request must meet a super-majority vote of four-fifths or greater from the Board of Adjustment.

(C) Appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board, or bureau of the town affected by any decision of the zoning enforcement officer. Such appeals shall be taken within not more than 60 days by filing with the zoning enforcement officer and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The zoning enforcement officer shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal or other matter referred to it, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party in interest may appear in person or by agent or attorney.

(D) An appeal stays all legal proceedings in furtherance of the action appealed from, unless the zoning enforcement officer from whom the appeal is taken certifies to the Board of Adjustment after the

notice of appeal shall have been filed with him or her that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application.

(E) Any person or persons jointly or individually aggrieved by any decision of the Board of Adjustment, or any taxpayer, any officer, department, board, or bureau of the town shall have recourse to the courts as provided by law.

(>87 Code, ' 32.017) (Ord. passed 4-5-76; Am. Ord. passed - -15; Am. Ord. passed 12-5-16)

Cross-reference:

Duties with respect to flood damage prevention, see ' 151.37

BUILDING INSPECTION DEPARTMENT

' 32.30 ESTABLISHMENT.

For provisions concerning the Building Inspection Department, see " 150.75 through 150.81 of this code.

(>87 Code, ' 32.030)

PLANNING BOARD

' 32.45 CREATION.

A Town Planning Board is hereby created under authority of G.S.' ' 160A-361 and 160A-387.

(>87 Code, ' 32.060) (Ord. passed 7-1-74)

' 32.46 MEMBERSHIP; TERM; REMOVAL.

(A) The Planning Board shall consist of eight members; five members shall be citizens and residents of the town and shall be appointed by the Town Council; three members shall be citizens and residents of the area lying outside the corporate limits of the town but within the town planning area and shall be appointed in accordance with G.S. ' 160A-362. The term of office of the members of the Planning Board shall be for overlapping terms of three years. Vacancies occurring for any reason other than expiration of term shall be filled as soon as is reasonably possible after the vacancy occurs by the proper board making the appointment. Such appointment shall be for the unexpired term, or for a longer term up to three years if needed to prevent the termination of four or more terms in the same year.

(B) Members may, after a public hearing, be removed by the Mayor for inefficiency, neglect of duty, or malfeasance in office. The Mayor shall file a written statement of reasons for such removal.
(>87 Code, ' 32.061) (Ord. passed 7-1-74; Am. Ord. passed 8-5-96)

' 32.47 ORGANIZATION AND RULES.

(A) The Planning Board shall elect a Chairperson from among the appointed members and create and fill such other offices as it may determine. The term of office for the Chairperson shall be as determined by the Planning Board as a whole.

(B) The Planning Board shall hold meetings as required or necessary and shall be called by the Chairperson, and such meetings shall be open to the public. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record.

(>87 Code, ' 32.062) (Ord. passed 7-1-74)

' 32.48 DUTIES AND POWERS.

(A) It shall be the function and duty of the Planning Board to make and adopt a suggested master plan for the physical development of the municipality or modify parts of this plan as the Planning Board and Town Council may deem best. The master plan, with the accompanying maps, plats, charts, and descriptive matter, may show the Planning Board's recommendations for the development of the territory including, among other things the general location, character, and extent of streets, viaducts, bridges, waterways, waterfronts, parks, boulevards, parkways, playgrounds, squares, aviation fields, and other public ways, grounds, and open spaces; the general location of public buildings and other public property; and the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes. The removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities, or terminals may also be part of the master plan. The Planning Board shall also prepare and submit to the Town Council for its consideration and possible adoption a zoning ordinance for the control of height, area, location, and use of buildings and premises in the area. The Planning Board may from time to time recommend amendments, extensions, or additions to the master plan.

(1) In the preparation of the master plan, modified plan, or parts thereof, the Planning Board shall make careful and comprehensive surveys and studies of present conditions and future growth of the municipality, with due regard to its relation to the neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development, including among other things adequate provision for traffic,

the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements.

(2) Before the adoption by the Planning Board of the master plan or any such plan, amendment, extension, or addition, the Planning Board shall hold at least one public hearing thereon. The Planning Board shall have power to promote public interest in and understanding of the plan and to that end may hold public hearings, publish and distribute copies of the plan or of any report, and may employ other means of publicity and education as it may determine. Members of the Planning Board, when duly authorized by the Planning Board, may attend city planning conferences or meetings of city planning institutes or hearings upon pending city planning legislation, and the Planning Board may, by resolution spread upon its minutes, pay the reasonable traveling expenses incident to this attendance. All officers and employees of the town shall render such reasonable assistance and any such information to the Planning Board as may be requested by the Planning Board for its work.

(B) The Planning Board shall from time to time, and at least annually, submit reports in writing to the Town Council giving information regarding the condition of the town, any plans or proposals for the development of the town, and estimates of the cost thereof. These reports shall contain any other recommendations the Planning Board feels should have immediate attention.

(C) The Planning Board may contract with city planners, engineers, architects, and other consultants for those services it may require. The expenditures of the Planning Board, shall be within the amounts appropriated for this purpose by the Town Council.

(>87 Code, ' 32.063) (Ord. passed 7-1-74; Am. Ord. passed 12-5-16)

RECREATION AND PARKS ADVISORY COMMITTEE

' 32.60 TITLE.

The recreation committee created by the town shall be known as the Haw River Recreation and Parks Advisory Committee, hereinafter referred to as the Advisory Committee.

(>87 Code, ' 32.110) (Ord. passed 5-2-84)

Statutory reference:

Administration of municipal parks and recreation programs, see G.S. ' 160A-354

Editor=s note:

Ordinance passed 4-5-04 suspended the activities and existence of the Recreation and Parks Advisory Committee until further action by the Town Council

' 32.61 MEMBERSHIP.

(A) Each of 12 members of the Recreation and Parks Advisory Committee shall be appointed by the Town Council for a three-year term.

(B) A Town Council Member and the Town Manager shall be ex officio members of the Recreation and Parks Advisory Committee. Ex officio members will not have a vote on items coming before the Advisory Committee, but will serve as liaison members between the Town Council and the Advisory Committee.

(C) Vacancies shall be filled by appointment of the Town Council; however, the Advisory Committee may make recommendations for replacements.

(D) Advisory Committee members are eligible for reappointment after their terms expire.

(E) A member who without excuse misses more than three consecutive regular meetings shall lose his or her status as a member of the Advisory Committee. A member should notify the Chairperson of any absences prior to the meeting.

(>87 Code, ' 32.111) (Ord. passed 5-2-84)

' 32.62 BUSINESS YEAR.

The business year of the Recreation and Parks Advisory Committee shall run from July 1 through June 30 of the next fiscal year.

(>87 Code, ' 32.112) (Ord. passed 5-2-84)

' 32.63 POWERS AND DUTIES.

(A) The Recreation and Parks Advisory Committee shall serve as the advisory body for the town and the surrounding areas.

(B) The Advisory Committee shall suggest policies to the Recreation and Parks Supervisor, Town Council, and the Town Manager within its powers and responsibilities as stated in this subchapter.

(C) The Advisory Committee shall serve as a liaison between the Recreation and Parks Supervisor, Town Council, Town Manager, and the citizens of the town and surrounding areas.

(D) The Advisory Committee shall consult with and advise the Recreation and Parks Supervisor, Town Council, and the Town Manager in matters affecting park and recreation policies, programs, personnel, finances, facilities, and acquisition and disposal of land and properties related to the total community recreation program and its long-range projected program for recreation and parks.

(>87 Code, ' 32.113) (Ord. passed 5-2-84)

' 32.64 OFFICERS.

(A) An annual election of a Chairperson, Vice-Chairperson, and Secretary (if not the Recreation and Parks Supervisor), shall be held by the Recreation and Parks Advisory Committee members and shall occur at the regular monthly meeting in June. Officers shall serve for one year from election and shall be eligible for reelection. New officers shall take office at the subsequent regular meeting in July.

(B) In the event an officer's appointment to the Advisory Committee is terminated, a replacement to this office shall be elected by the Advisory Committee from its membership at the meeting following the termination.

(C) The Chairperson shall plan an agenda for each regular meeting and preside at all meetings, sign all documents, appoint all subcommittees, and present all Advisory Committee recommendations and reports to the Town Council or appoint a designee to perform this duty.

(D) The Vice-Chairperson shall perform all duties of the Chairperson in his or her absence and shall be responsible for assisting the Chairperson to see that all standing and temporary committees function as planned by the Advisory Committee and the Recreation and Parks Supervisor.

(E) A member shall serve as Secretary to the Advisory Committee and shall be responsible for the satisfactory accomplishment of secretarial duties. The Recreation and Parks Supervisor may serve as the Secretary to the Advisory Committee. The Secretary shall mail to all members copies of official reports and official minutes of all regular and special meetings at least seven days prior to the next scheduled meeting.

(>87 Code, ' 32.114) (Ord. passed 5-2-84)

' 32.65 MEETINGS.

(A) Meetings of the Parks and Recreation Advisory Committee will be held on the second Tuesday of each month at 7:30 p.m. at the town hall.

(B) The Chairperson of the Advisory Committee or in his or her absence, the Vice-Chairperson, may call a special meeting of the Advisory Committee by giving each member 24-hours notice. A special meeting will be scheduled upon request by five or more members.

(C) A quorum of the Advisory Committee shall be in attendance before action of an official nature can be taken. A quorum is the presence of the appointed members with at least one more present than the number of members absent.

(D) The order of business at regular meetings shall be as follows:

- (1) Call to order.
- (2) Consideration of minutes of previous meeting.
- (3) Report of Chairperson.
- (4) Report of Recreation and Parks Supervisor.
- (5) Report of subcommittees.

(6) Unfinished business.

(7) New business.

(8) Adjournment.

(E) General parliamentary rules given in *Robert's Rules of Order*, as modified by rules and regulations of the Advisory Committee, shall be observed in conducting meetings.

(F) The first regular meeting in June will be an organizational meeting with the election of officers, annual report, and report of subcommittees.

(G) Amendments to bylaws must be proposed in writing at one regular meeting and acted upon at the next regular meeting.

(>87 Code, ' 32.115) (Ord. passed 5-2-84)

' 32.66 SUBCOMMITTEES.

(A) The Parks and Recreation Advisory Committee Chairperson is authorized to appoint those subcommittees as in the opinion of the Advisory Committee are needed. The standing subcommittees shall be appointed by the Chairperson at the July meeting or as soon thereafter as possible and its members shall serve until their successors are appointed.

(B) Subcommittees may be composed of members from the community, representatives of civic groups, or others. Each subcommittee shall consist of not less than two members of the Advisory Committee. One shall be the subcommittee chairperson, and one shall be the Chairperson of the Advisory Committee, the ex officio Town Council Member, or the Town Manager.

(C) Temporary and project committees shall be appointed as needed.

(D) A record of the actions of each subcommittee shall be kept by the subcommittee chairperson and shall be reported to the Advisory Committee at its next meeting.

(E) There shall be four standing subcommittees, which shall be as follows.

(1) *Programs and Activities Subcommittee.* This subcommittee shall:

(a) Assist the Recreation and Parks Supervisor in planning a program of recreation based on the expressed needs and interests of the community residents and recommend to the Recreation and Parks Supervisor and the Advisory Committee those programs which they feel should be implemented.

(b) Assist the Recreation and Parks Supervisor in recruiting volunteer leadership staff to work with the parks and recreation programs and activities.

(c) Assist in developing cooperative arrangements with other organizations and private groups when it will further the objective of providing more and varied kinds of programs for the community.

(d) Assist the Recreation and Parks Supervisor in evaluating each program to provide an annual report on all programs and activities.

(e) Perform other duties as requested by the Recreation and Parks Supervisor, the Chairperson of the Advisory Committee, the Town Manager, or the Town Council.

(2) *Areas and Facilities Subcommittee.* This subcommittee shall:

(a) Assist in investigating and determining the need for new facilities or renovation and improvement of existing facilities.

(b) Make recommendations for the care and control of all areas, facilities, and equipment.

(c) Assist in matters relating to the maintaining of the highest standards in park operation and development.

(d) Perform duties as requested by the Recreation and Parks Supervisor, the Chairperson of the Advisory Committee, the Town Manager, or the Town Council.

(3) *Budget and Finance Subcommittee.* This subcommittee shall:

(a) Advise and assist the Recreation and Parks Supervisor in the preparation of a parks and recreation budget by reviewing the financial needs and interpreting those needs to the Recreation and Parks Supervisor, the Town Manager, the Town Council, and the general public.

(b) Recommend fees and charges to be used.

(c) Determine the amount needed to be raised by taxation or other means in order to provide for all parks and recreation expenditures.

(d) Assist the Recreation and Parks Supervisor and the Town Manager in reporting the accounting and financial records and status to the Advisory Committee.

(e) Recommend and advise on the acceptance of any grant, gift, bequest, donation, or any personal or real property made available for park and recreation purposes.

(f) Perform other duties as requested by the Recreation and Parks Supervisor, Chairperson of the Advisory Committee, the Town Manager, or the Town Council.

(4) *Policies and Procedures Subcommittee.* This subcommittee shall:

(a) Assist and make recommendations to the Recreation and Parks Supervisor and the Advisory Committee on the policies, procedures, rules, and regulations which will provide for effective operation of the programs and facilities.

(b) Maintain and be custodian of the manual containing all approved policies, procedures, rules, regulations, and agreements which govern the parks and recreation system.

(c) Perform other duties as requested by the Recreation and Parks Supervisor, Chairperson of the Advisory Committee, Town Manager, or the Town Council.
(>87 Code, ' 32.116) (Ord. passed 5-2-84)

CHAPTER 33: FIRE AND POLICE DEPARTMENTS

Section

Fire Department

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- 33.36 Court appearance
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FIRE DEPARTMENT**' 33.01 ORGANIZATION.**

The Fire Department shall consist of a Chief and a sufficient number of firefighters (voluntary, part- or full-time), to maintain and operate the Department.

(>87 Code, ' 32.040) (Ord. passed 1-7-74; Am. Ord. passed 5-3-10)

Statutory reference:

Authority to establish Fire Department, see G.S. ' 160A-291

' 33.02 FIRE CHIEF; DUTIES.

(A) The Town Manager shall be responsible for the recruiting, hiring and appointment of the Fire Chief. The Clerk of the Town Council shall administer the oath of office to the newly elected Fire Chief when he or she is approved. It shall be the duty of the Fire Chief to preside over and maintain order at all meetings of the Fire Department. He or she shall decide all questions of order subject to appeal. The Fire Chief shall be responsible to the Town Manager and the proper county, state, and federal agencies in all matters concerning the Fire Department.

(B) The duties of the Fire Chief, subject to supervision by the Town Manager, shall be as follows:

(1) General control of the Fire Department and its personnel, apparatus, and fire alarm system.

(2) Command the Fire Department, supervise the firefighting and the extinguishing of all fires, and have the authority to keep away from the vicinity of all fires all idle, disorderly, or suspicious persons.

(3) Inspect or cause to be inspected all trucks and other equipment of the Fire Department each week to ascertain that the equipment is being kept in proper condition, and report annually to the Town Manager the condition of all equipment.

(4) Inspect or cause to be inspected the fire alarm system at least once every three months and make a report of the inspection to the Town Manager.

(>87 Code, ' 32.041) (Ord. passed 1-7-74; Am. Ord. passed 5-3-10)

' 33.03 FIRE INSPECTOR; DUTIES.

(A) The Fire Chief shall assume the functions of Fire Inspector. As such, he or she, or his or her designated agent, shall have authority to enter any and all premises at a reasonable time for the purpose of inspection.

(B) The Fire Inspector shall make inspections of all structures located within the fire district when requested.

(C) The Fire Inspector shall, upon receipt of a complaint, investigate and make recommendations to responsible persons at the scene of the investigation. He or she shall also report his or her findings to the Town Manager for follow-up action.

(D) The Fire Inspector shall investigate the causes of fires and shall keep records of his or her findings as to origin, location, owner, extent of damage, injury, and amount of insurance carried. The findings must be reported to the State Insurance Commissioner at regular intervals.

(E) The Fire Inspector shall cause the removal of fire hazards by serving proper order to the owner or agent of the premises in question; the order shall state a reasonable time limit. Failure to comply with the order shall be punished as set forth in ' 10.99. In addition, all provisions contained in the Town Building Code (Chapter 150) relative to unsafe buildings shall be applicable.

(>87 Code, ' 32.042) (Ord. passed 1-7-74; Am. Ord. passed 5-3-10)

Statutory reference:

Fire Chief as Fire Inspector, see G.S. ' 58-79-20

Right to appeal order of Fire Chief, see G.S. ' 58-79-20

' 33.04 AUTHORITY IN EVENT OF FIRE.

(A) The officer in command at the scene of a fire shall have authority to summon aid, and no citizen so summoned may refuse to help in extinguishing the fire or in protecting exposed property.

(B) During the continuance of a fire, the Fire Chief, or his or her assistant, shall have authority to call upon any citizen to render assistance in pulling down or demolishing any building or in removing goods or furniture from a building on fire or in danger of fire, but not without the consent of the officer of the Fire Department or the Police Department who may be in charge.

(>87 Code, ' 32.043) (Ord. passed 1-7-74; Am. Ord. passed 5-3-10)

' 33.05 INTERFERENCE WITH FIREFIGHTER, FIRE APPARATUS.

(A) No person shall interfere with a firefighter in the discharge of his or her duty or hinder him or her in the performance of his or her duty; nor shall any person other than a member of the Fire Department loiter about any fire station or change, handle, or meddle in any manner with any fire engine or any other fire apparatus.

(B) No person other than a bona fide member of the Fire Department shall mount any fire engine, wagon, or apparatus before it leaves the station or while on its way to or from a fire or at any other time, unless by permission of the driver or officer in command of the engine, wagon, or other apparatus.

(>87 Code, ' 32.044) (Ord. passed 1-7-74; Am. Ord. passed 5-3-10) Penalty, see ' 10.99

' 33.06 RULES AND REGULATIONS.

The Fire Department may from time to time adopt its own rules and regulations governing the Department so long as they do not conflict with the rules and regulations of the town. However, any rules and regulations shall include provisions for at least one training period each month.

(>87 Code, ' 32.045) (Ord. passed 1-7-74; Am. Ord. passed 5-3-10)

POLICE DEPARTMENT**' 33.20 ORGANIZATION.**

The Police Department of the town shall consist of a Police Chief, as many regular police officers as the Town Council shall determine necessary, and an Auxiliary Police Division as established by ' 33.37.

(>87 Code, ' 32.075) (Ord. passed 12-2-74; Am. Ord. passed 5-3-10)

Statutory reference:

Appointment of police officers, see G.S. ' 160A-281

Special police, see G.S. ' 160A-282

' 33.21 SUPERVISION BY TOWN MANAGER.

The Town Manager shall have general supervision over the Police Department. The Town Manager may suspend, for cause, any member of the Police Department until final disposition shall be made.

(>87 Code, ' 32.076) (Ord. passed 12-2-74; Am. Ord. passed 5-3-10)

' 33.22 CHIEF OF POLICE.

The Chief of Police shall have control over the Police Department, under the supervision of the Town Manager. The Police Chief shall keep the Town Manager informed of the Police Department's activities and make those reports that the Town Manager may from time to time require. The Police Chief shall also perform other duties as may be required of him or her by the Town Manager.

(>87 Code, ' 32.077) (Ord. passed 12-2-74; Am. Ord. passed 5-3-10)

' 33.23 OATH OF OFFICE.

Each person appointed or employed as Chief of Police, police officer, or auxiliary police officer shall take and subscribe before some person authorized by law to administer oaths the oath of office

required by the State Constitution, Art. VI, Section 7. The oath shall be filed with the Town Administrator/Clerk.

(G.S. ' 160A-284) (>87 Code, ' 32.078) (Am. Ord. passed 5-3-10)

' 33.24 EXTRATERRITORIAL JURISDICTION.

(A) In addition to their authority within the corporate limits, town police officers shall have all the powers invested in law-enforcement officers by statute or common law within one mile of the corporate limits of the town and on all property owned by or leased to the town wherever located.

(B) Any officer pursuing an offender outside the corporate limits or extraterritorial jurisdiction of the town shall be entitled to all of the privileges, immunities, and benefits to which he or she would be entitled if acting within the town, including coverage under workmen's compensation laws.

(G.S. ' 160A-286) (>87 Code, ' 32.079) (Am. Ord. passed 5-3-10)

' 33.25 POWERS AND DUTIES.

(A) The Police Department shall carry out all orders of the Town Manager, enforce all laws and ordinances of the town and the state, and at all times preserve the peace and protect the property and safety of the citizens of the town. (Ord. passed 12-2-74)

(B) As a peace officer, a police officer shall have within the corporate limits of the town all of the powers invested in law-enforcement officers by statute, ordinance, or common law. He or she shall also have power to serve all civil and criminal process that may be directed to him or her by an officer of the General Court of Justice and may enforce the ordinances and regulations of the town as the Town Manager may direct. (G.S. ' 160A-285)

(>87 Code, ' 32.080) (Am. Ord. passed 5-3-10)

' 33.26 CONDUCT OF OFFICERS; CARRYING WEAPONS.

(A) All police officers shall realize the public expects an officer to be an officer 24 hours a day and shall conduct themselves in a manner so they may respond to active duty any time the need should arise. All officers shall carry their official identification and weapons at all times. If weapons are not carried on their person while off duty and in their respective jurisdiction, they should be readily accessible in case a situation should arise while the officer is out in public and off duty.

(B) All officers and members of the Police Department must remain alert, observant, and occupied with police business during their tour of duty and must not conduct themselves in a manner that would merit criticism for inattentiveness or waste of time. All officers must maintain themselves, their uniforms, and equipment in a neat, prepared manner.

(C) At no time shall an officer conduct himself or herself in a manner unbecoming to an officer, whether on or off duty.

(D) All members of the Police Department shall familiarize themselves with the code of conduct contained in this chapter, all general orders, and the town's personnel policies. It shall be the responsibility of each member to be familiar with each of these mentioned items.

(>87 Code, ' 32.081) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

' 33.27 DERELICTIONS OF DUTY.

(A) Derelictions of duty on the part of any officer which are prejudicial to the proper performance of the functions of the Police Department are causes for disciplinary action and will be punished according to the degree of the violation of this subchapter and the town personnel policies. The following constitute violations of this section:

- (1) Failure to observe and give effect to the policies of the Police Department.
- (2) Failure to obey orders or the willful or repeated violation of any rule, regulation, or policy of the Police Department.
- (3) Failure to make proper report of offenses investigated, observed, or reported.
- (4) Failure to deliver and make report of any property found by, confiscated by, or relinquished to any member of the Police Department.
- (5) Failure to maintain evidence in accordance with applicable law.
- (6) Sleeping on duty.
- (7) Neglect of duty.
- (8) Violation of any ordinance, rule, regulation, or policy of the Police Department or the town.
- (9) Failure to give name and badge number upon request.
- (10) Absence without leave (for example, either a failure to report for duty at the time and place of duty or the leaving of a place of duty or assignment without the proper authorization from a supervisor).
- (11) The following will result in immediate relief of duty:

- (a) Being under the influence of drinking or using in any manner any intoxicants, drugs, or alcoholic beverages while on duty.
- (b) Appearing intoxicated in a public place while off duty.
- (c) Excessive use of intoxicants.
- (d) Willful disobedience of any lawful order issued by a supervisor.
- (e) Unnecessary violence toward any person.
- (f) Disrespect shown to a supervisory officer.
- (g) Using indecent, profane language while on duty.
- (h) Accepting, agreeing to accept, or soliciting a bribe. A bribe shall include any money, item of value, service, testimony, or anything that would cause the person giving the same any special privileges or personal gain. In no way will these items be taken to be explained by the term "gift," but will be strictly considered a bribe.
- (i) Cowardice.
- (j) Violation of any federal or state law.
- (k) Conduct subversive to the good order and discipline of the Police Department or the town.

(B) It is understood that this code of conduct cannot cover every case which may arise. Therefore, those acts not specifically set out in division (A) which involve moral turpitude or which may bring discredit upon the individual or the Police Department itself, or cause conflict with policies and procedures if committed by an employee, will be taken cognizance of and action shall be taken according to the seriousness of the offense in the same manner and degree as if the offense had been specifically set out herein.

(>87 Code, ' 32.082) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

' 33.28 OFFICERS TO DEVOTE FULL TIME; APPROVAL OF PART-TIME EMPLOYMENT.

(A) Each member shall devote himself or herself full-time as a police officer of the town.

(B) Understanding that economics sometimes make it desirable to seek and obtain part-time employment, any officer wishing to do so must first request the same in writing to the Chief of Police

setting forth the company he or she would be working for, the hours, pay, description of the job, and duties he or she would be performing. All requests will be reviewed by the Chief of Police for his or her action on the same. However, under no circumstances will any officer be allowed to participate in part-time employment at any pool room, game room, adult book and film store, or bar.

(>87 Code, ' 32.083) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

' 33.29 POLITICAL ACTIVITY.

No officer shall actively campaign for any candidate running for public or political office while in the performance of his or her duties as a police officer, nor shall he or she use his or her position to attempt to influence anyone's decision in a political election.

(>87 Code, ' 32.084) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

' 33.30 OFFICERS TO OBSERVE RIGHTS OF PERSONS DETAINED, QUESTIONED.

All officers will strictly abide by the law in regard to the rights of all persons, shall not in any way violate these rights, and at all times shall treat all persons with the respect and courtesy due them.

(>87 Code, ' 32.085) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

Statutory reference:

Arrest procedure, see G.S. ' 15A-501

' 33.31 GOSSIP AND CONFIDENTIAL INFORMATION.

At no time shall any member of the Police Department spread rumors or gossip to anyone concerning any member of the Police Department, town employees, or anyone else. No officer shall divulge any information about any investigation or criminal activity or records unless authorized to do so by the Chief of Police or a court order.

(>87 Code, ' 32.086) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

' 33.32 ADDRESS, TELEPHONE NUMBER TO BE KEPT CURRENT.

All members of the Police Department shall furnish the Chief of Police with an accurate and up-to-date address and telephone number. All members of the Department shall be expected to maintain a telephone and should realize that the nature of police business dictates that an officer may be called in for duty at times other than normal duty hours.

(>87 Code, ' 32.087) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

' 33.33 UNIFORMS.

(A) All police officers shall wear uniforms provided by the town, shall keep these uniforms in a neat and clean condition, and shall surrender all uniforms and equipment upon leaving the police service of the town if the uniforms and equipment are furnished by the town.

(B) The uniform and sidearms will be worn when and as prescribed herein and as set forth in current general orders:

(1) When on duty, every member of the Police Department shall wear the uniform and insignias and carry such equipment as the Chief of Police may direct.

(2) No member of the uniformed division shall ever appear for duty in civilian clothing unless directed or authorized to do so by the Chief of Police.

(3) Members of the Police Department are required to keep their uniforms and equipment in good, neat, and clean condition.

(4) An officer will be considered out of uniform when not wearing the prescribed uniform.

(5) No officer when dressed in civilian clothing, whether on or off duty, shall wear his or her pistol in such a manner that it will attract attention or be open to the view of the public, but rather it shall be worn in a concealed manner so as to be inconspicuous, in accordance with seasonal dress.

(6) No officer shall wear his or her uniform or badge while under suspension from the Police Department.

(>87 Code, ' 32.088) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

' 33.34 EQUIPMENT; VEHICLES.

(A) All officers shall maintain their equipment in good, proper working condition.

(B) All officers are hereby prohibited from altering or changing any police equipment issued to or used by them.

(C) All officers are hereby prohibited from operating any police vehicle in a reckless or abusive manner and shall maintain the vehicle in a good and neat condition.

(D) Officers are hereby prohibited from utilizing emergency equipment, such as blue lights, sirens, or public address systems, for foolishness, horseplay, or harassment.

(>87 Code, ' 32.089) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

' 33.35 EMERGENCY RUNS; CHASE SITUATIONS.

(A) An officer shall use a police vehicle on an emergency run only when requested to do so by the town's dispatcher, "C-Comm" dispatcher or another law enforcement officer requesting emergency assistance, or when in the officer's own sound judgment he or she should make the emergency run, in which case the officer will be expected to give sound oral and written reasons for his or her judgment.

(B) At any time an officer becomes involved in a chase situation with another vehicle, he or she is hereby directed to use common sense and sound judgment in the situation. If at any time the general safety and well-being of the general public should become exposed to unnecessary danger, the officer shall back off or disregard the chase.

(C) All officers will be strictly accountable for their actions in a chase situation.
(>87 Code, ' 32.090) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

' 33.36 COURT APPEARANCES.

(A) All members of the Police Department must be present and available to testify in any court or grand jury in the county when officially notified to appear. In criminal cases outside the county, an officer shall respond to a legal subpoena only.

(B) Any officer who for a valid reason is unable to answer an official summons must be excused by the court or grand jury prior to the time he or she is scheduled to appear.

(C) All officers will set their criminal court cases on their designated court dates, unless the cases are otherwise set for trial on a different date by the court.
(>87 Code, ' 32.091) (Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

' 33.37 AUXILIARY POLICE DIVISION.

(A) There is hereby established within the Police Department as a division thereof, an Auxiliary Police Division. The Auxiliary Police Division shall be a volunteer organization composed of as many members as may from time to time be determined by the Town Council.

(B) The Chief of Police shall appoint all officers of the Auxiliary Police Division. Each member of the Auxiliary Police Division shall take the oath of office of a regular police officer. The Chief of Police shall provide for adequate training of members of the Auxiliary Police Division and of candidates for membership thereof.

(1) The Auxiliary Police Division shall be under the direct control and supervision of the Chief of Police, acting under the general supervision of the Town Manager. All appointments and removals of members of the Auxiliary Police Division shall be made in the same manner and under the same policies and procedures as may from time to time be established for appointment and removal of regular police officers.

(2) All members of the Auxiliary Police Division shall work under the direct supervision of the Chief of Police, a regular police officer, or any officer so designated by the Chief of Police as a supervisory officer for the Auxiliary Police Division.

(C) (1) The duties of the Auxiliary Police Division, subject at all times to the direction, supervision, and control of the Chief of Police, shall be to assist the regular members of the Police Department in the enforcement of law and the maintenance of peace and order when called to active duty by the Chief of Police. The Chief of Police shall establish rules and regulations to govern the Auxiliary Police Division and shall assign specific duties for its members and provide for the maintenance of discipline. Members of the Auxiliary Police Division shall also obey the instructions of regular police officers in carrying out their duties.

(2) No member of the Auxiliary Police Division shall enforce or attempt to enforce any law except when called to active duty, except when immediately accompanied by one or more regular police officers and under the direction of the Chief of Police.

(D) All members of the Auxiliary Police Division shall abide by all provisions regulating the conduct of regular police officers.

(E) No member of the Auxiliary Police Division shall carry or use any firearms except upon the express order of the Chief of Police and only after having been called to active duty by the Chief of Police. Further, such member shall be accompanied and be under the supervision of one or more regular police officers. All members of the Auxiliary Police Division shall wear and utilize such equipment as is prescribed by the Chief of Police.

(F) An identification card, or such other badge, insignia, or evidence of identity as the Chief of Police may prescribe and issue, must be carried at all times by all members while on active duty and shall be surrendered upon termination of membership.

(>87 Code, ' 32.092) (Ord. passed 6-1-81; Am. Ord. passed 1-5-82; Am. Ord. passed 5-3-10)

Statutory reference:

Authorization to establish auxiliary police department, see G.S. ' 160A-282

CHAPTER 34: TOWN POLICIES

Section

Affirmative Action Plan

- 34.01 Goals of plan
- 34.02 Equal Employment Opportunity Officer
- 34.03 Responsibility of departments
- 34.04 Internal communication of plan
- 34.05 Recruiting and selection process
- 34.06 Training
- 34.07 Compensation
- 34.08 Promotion
- 34.09 Labor contracts
- 34.10 Grievance procedure
- 34.11 Termination

Procedures for Disposing of Personal Property Valued At Less Than \$5,000

- 34.25 Designated official
- 34.26 Sale of property
- 34.27 Record of sales/exchanges

Background Checks for Town Employees

- 34.35 Criminal history checks

AFFIRMATIVE ACTION PLAN

' 34.01 GOALS OF PLAN.

(A) Immediate action should be taken to assure that salaries and benefits are the same for all employees who perform substantially similar work. In addition, neither age, sex, race, religion, national origin, or physical handicap shall be a factor in placing employees in jobs with different pay levels or opportunities for advancement.

(B) Long-range goals should also be established to eliminate employment discrimination and the effects of past discrimination. Annual targets should be set based upon anticipated turnover, expansion or contraction, availability of qualified persons, and similar considerations which targets shall be aimed at increasing the numbers of employees in the groups identified as under represented in each major job description.

(>87 Code, ' 34.01) (Ord. passed 3-6-79)

' 34.02 EQUAL EMPLOYMENT OPPORTUNITY OFFICER.

(A) The Equal Employment Opportunity Officer has responsibility for developing procedures to implement this plan and to audit and evaluate the success of these procedures.

(B) The duties of the Equal Employment Opportunity Officer are to:

- (1) Implement and communicate the plan.
- (2) Periodically review the plan, placing special emphasis on the results achieved.
- (3) Receive and investigate rumors or complaints of discrimination from other employees.
- (4) Aid in preparing job descriptions for each position and distribute the descriptions to employees upon hiring.
- (5) Post his or her name, location, hours, and phone number in one or more public areas.

(C) The Equal Employment Opportunity Officer shall continually monitor progress being made in meeting the objectives of this plan. Where appropriate, periodic revisions in the annual affirmative action plan shall be made.

(D) The Equal Employment Opportunity Officer shall prepare and submit reports to the State Equal Employment Opportunity Commission and to all other appropriate governmental agencies having responsibility for the affirmative action performance of the town.

(E) The Equal Employment Opportunity Officer shall conduct a census of the town employees by job class and submit an assessment of the current utilization patterns for women and minorities.

(>87 Code, ' 34.02) (Ord. passed 3-6-79)

' 34.03 RESPONSIBILITY OF DEPARTMENTS.

(A) Department heads and supervisors shall be responsible for helping to meet the goals of the policy. Every department head is very important to program success. Performance in meeting affirmative action objectives shall be the responsibility of each department head.

(B) The heads of various departments in the jurisdiction will be responsible for:

- (1) Analyzing their work force relative to utilization of minorities and women.
- (2) Actively promoting a positive climate in the departments concerning affirmative action.

(3) Counseling and giving special help to women and minority employees, particularly with regard to promotional opportunities within the departments.

(>87 Code, ' 34.03) (Ord. passed 3-6-79)

' 34.04 INTERNAL COMMUNICATION OF PLAN.

(A) Special meetings shall be held quarterly with supervisory personnel to discuss progress and problems relative to the program.

(B) Required equal opportunity posters and an employer policy statement regarding the program shall be posted in places where employees normally expect to find such notices.

(C) Every employee shall be informed of the Equal Employment Opportunity Officer to whom questions can be directed and whose counsel may be sought regarding the program.

(D) Every employee shall also be personally informed of the existence and operation of the internal grievance procedure set up under ' 34.10 of this plan for handling complaints of discrimination.

(E) The actions of every employee are important to achieving the plan's objectives.

(>87 Code, ' 34.04) (Ord. passed 3-6-79)

' 34.05 RECRUITING AND SELECTION PROCESS.

(A) All employment advertisements shall contain the words "an equal opportunity-affirmative action employer."

(B) All recruiting announcements will contain the following statement: "The Town of Haw River, North Carolina, is an affirmative action/equal opportunity employer. We are dedicated to a policy of nondiscrimination in employment on the basis of race, color, religion, sex, marital status, national origin, age, or mental or physical disability."

(C) Employment application forms shall contain the following clause: "The Town of Haw River, North Carolina, is an equal opportunity employer and shall not discriminate against an employee or applicant for employment because of race, color, religion, sex, age, marital status, national origin, or mental or physical disability unless based upon a bona fide occupational qualification. If you believe you have been discriminated against, you should notify the jurisdiction's Equal Employment Opportunity

Officer, the State Equal Employment Opportunity Commission, or the State Civil Rights Division, Bureau of Labor."

(D) Application blanks and employer records shall be reviewed and revised to ensure all questions not related to job performance or which operate to the detriment of minorities and women are eliminated.

(E) Other selection criteria such as physical or education requirements shall be reviewed and revised to ensure job-relatedness. Specifically, this includes, but is not limited to height and weight requirements, educational degrees, years of work experience, and the like.

(F) All criteria used in selection shall be the minimum necessary for the job or job class for which the individual is hired. Only where promotion to higher jobs or job classes is expected within a reasonable period of time shall criteria for the higher job be used and then only when it is unfeasible for the town, through training programs, to prepare the individual for promotion in that time period.

(G) Interviews or oral boards shall be carefully structured to seek only information that is job-related. Action taken as a result of the interviews shall be specifically recorded on this form and focused on job-related factors only. All interviewers shall be carefully selected and instructed. Where possible, minority or women interviewers shall be utilized.

(H) Required equal employment opportunity notices, along with information regarding the town's affirmative action plan, shall be conspicuously displayed in all offices where tests and interviews are conducted. In addition, an equal employment opportunity clause such as that referred to in division (C) shall be included on all application blanks and employee records.

(>87 Code, ' 34.05) (Ord. passed 3-6-79)

' 34.06 TRAINING.

(A) Whenever the jurisdiction sponsors any training activity, special attention and consideration shall be given to securing the participation of minorities and women.

(B) Work schedules of minorities and women employees shall be adjusted so as to permit their participation in training programs.

(C) Where lack of resources restricts training opportunities that can be offered, the town shall seek the cooperation of other agencies in requesting local educational institutions to set up training programs so as to increase the numbers of qualified women and minorities in the labor force.

(>87 Code, ' 34.06) (Ord. passed 3-6-79)

' 34.07 COMPENSATION.

(A) Pay rates shall be equalized where jobs require substantially equal skill, effort, and responsibility.

(B) All fringe benefit programs shall be reviewed and revised where necessary to assure that they are equally available to every employee. Particular attention shall be paid to the availability of fringe benefits to female employees, especially in areas such as disability leave for childbirth, retirement systems, and insurance programs.

(C) Working conditions shall be reviewed to ensure that for each job or job classification substantially similar conditions prevail. Specifically, this will include review of work schedules, opportunities for overtime work, scheduling of vacations, and other similar items.

(>87 Code, ' 34.07) (Ord. passed 3-6-79)

' 34.08 PROMOTION.

(A) Selection for promotion shall conform to all the practices outlined in ' 34.05.

(B) No applicant shall be denied a promotion or job assignment on the basis of sex or any other prohibited criteria. Applicants shall be given a trial on the job to prove their capability if they are otherwise eligible for the promotion or assignment. The same policy shall be adhered to in layoff and recall decisions.

(>87 Code, ' 34.08) (Ord. passed 3-6-79)

' 34.09 LABOR CONTACTS.

A nondiscrimination clause shall be written into all labor contracts. It shall state substantially that: "It is mutually agreed that there shall be no discrimination because of race, color, religion, sex, age, marital status, national origin, or mental or physical disability unless based upon a bona fide occupational qualification. Union and management representatives shall work cooperatively to assure the achievement of equal employment opportunity. Any employee who fails to cooperate toward this end shall be subject to disciplinary action. Furthermore, employees who feel they have been discriminated against shall be encouraged to use the grievance procedure set up under this contract prior to seeking relief through other channels."

(>87 Code, ' 34.09) (Ord. passed 3-6-79)

' 34.10 GRIEVANCE PROCEDURE.

(A) An applicant or employee who feels that he or she has been discriminated against because of race, color, religion, sex, national origin, marital status, age, or physical handicap or because due process has been denied them, may file a complaint with the Equal Employment Opportunity Officer. Any such complaint must be filed within 30 calendar days of the alleged incident of discrimination.

(B) The Equal Employment Opportunity Officer will be responsible for conducting a fair and impartial investigation and making findings of fact as to all interested parties. The Equal Employment Opportunity Officer shall then make a recommendation to an impartial panel which shall be responsible

for a final determination of the matter. Should the complainant so request in writing, an appeal in the form of a hearing shall be granted. The Equal Employment Opportunity Officer shall be responsible for convening and establishing fair hearing procedures.

(>87 Code, ' 34.10) (Ord. passed 3-6-79)

' 34.11 TERMINATION.

Employees shall be terminated only for just cause or of their own volition. Exit interviews will be conducted in the case of voluntary resignations of minorities and women to see if any factors under the town's control are responsible. A written record of any such factors disclosed shall be made.

(>87 Code, ' 34.11) (Ord. passed 3-6-79)

PROCEDURES FOR DISPOSING OF PERSONAL PROPERTY VALUED AT LESS THAN \$5,000

' 34.25 DESIGNATED OFFICIAL.

The Town Manager is hereby authorized, pursuant to G.S. ' 160A-266(c), to dispose of any surplus personal property owned by the town whenever he or she determines, in his or her discretion, that:

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

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

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

(Ord. passed 12-4-89; Am. Ord. passed 2-5-01)

' 34.26 SALE OF PROPERTY.

(A) The Town Manager may dispose of any surplus personal property by any means which he or she 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, Art. 12. The sale may be public or private and with or without notice and minimum waiting period.

(B) 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 Town Manager is hereby authorized to execute and deliver any applicable title documents. If no offers are received within a reasonable time, the Town Manager 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 organization except by resolution of the Mayor and Town Council.
(Ord. passed 12-4-89; Am. Ord. passed 2-5-01)

' 34.27 RECORD OF SALES/EXCHANGES.

The Town Manager shall keep a record of all property sold under authority of this subchapter and that record 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.
(Ord. passed 12-4-89; Am. Ord. passed 2-5-01)

BACKGROUND CHECKS FOR TOWN EMPLOYEES

' 34.35 CRIMINAL HISTORY CHECKS.

(A) In order to protect the citizens of the town and their properties, the procedures herein are established to provide for fingerprinting and criminal history checks on all final applicants for regular full and part-time positions in the Town Government. Employment with the town may be denied for those persons convicted of any crime against a person, or crimes against property where intent is an element, or any drug or gambling related offense.

(1) The Town Manager, or designee, shall conduct an investigation of any final candidate for a permanent full-time or part-time position with the Town Government and it shall be a precondition of employment that an applicant for such a position shall upon request, provide fingerprints and all other necessary personal identification including a birth certificate, social security number and driver=s license, if available, so that the Town Manager, or designee, may cause a thorough search to be made of local and state records to determine if the applicant has a history of criminal convictions or the crimes enumerated above by the use of the Division of Criminal Information Network (DCI).

(2) The Police Department shall provide the findings from the use of the DCI to the Town Manager or designee, provided that all necessary agreements with the State Bureau of Investigations Division of Criminal Information have been executed.

(3) An evaluation of any crime for purpose of employment will take into account the nature and the circumstances of the offense and the time frame of the offense as it relates to essential job functions for the position applied.

(B) If this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications or the ordinance, which can be given separate effect, and to that end the provisions of this section are declared to be severable.

(C) Prior to denial or termination of employment based upon Criminal History Record Inquiry (CHRI) received from the Haw River Police Department. The Town of Haw River shall verify the existence of a record by either obtaining a certified public record or by submitting a fingerprint card of the individual to the CHS section for verification that the CHRI record belongs to the individual.

(Ord. passed 7-2-07)

CHAPTER 35: CIVIL EMERGENCIES

Section

- 35.01 When state of emergency deemed to exist
- 35.02 Proclamation by Mayor
- 35.03 Restrictions during emergency
- 35.04 Violations prohibited
- 35.05 Proclamation of end of state of emergency

Statutory reference:

Civil disorders, see G.S. " 14-288.1 through 14-288.20

State Emergency Management Act, see G.S. Ch. 166A

' 35.01 WHEN STATE OF EMERGENCY DEEMED TO EXIST.

A state of emergency shall be deemed to exist whenever there is an occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, or paramilitary cause.

(>87 Code, ' 92.01) (Ord. passed 1-7-74)

Statutory reference:

Definitions, G.S. ' 166A-4

Procedures governing declaration of a local state of emergency, G.S. ' 166A-8

' 35.02 PROCLAMATION BY 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 of the restrictions authorized in this chapter.

(B) The Mayor is hereby authorized and empowered to limit by the proclamation the application of such restrictions to any area specifically designated or described within the corporate limits and to specific hours of the day or night; and to exempt from those restrictions law enforcement officers, firefighters, 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 such 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.

(>87 Code, ' 92.02) (Ord. passed 1-7-74)

' 35.03 RESTRICTIONS DURING EMERGENCY.

(A) During the existence of a proclaimed state of emergency, the Mayor may impose by proclamation any 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 some member thereof.

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

(B) 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.

(>87 Code, ' 92.03) (Ord. passed 1-7-74)

Statutory reference:

Authority to set forth such restrictions, see G.S. " 14-288.12, 14-288.16

' 35.04 VIOLATIONS 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.

(>87 Code, ' 92.04) (Ord. passed 1-7-74) Penalty, see ' 10.99

' 35.05 PROCLAMATION OF END OF STATE OF EMERGENCY.

The Mayor shall proclaim the end of a 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 Town Council.

(>87 Code, ' 92.05) (Ord. passed 1-7-74)

Statutory reference:

Rescission of proclamations, see G.S. ' 14-288.16

CHAPTER 36: TAXES

Section

Short-Term Lease or Rental of Vehicles

- 36.01 Definitions
- 36.02 Levy of tax
- 36.03 Collection of tax
- 36.04 Report and payment of tax
- 36.05 Taxpayer to keep records
- 36.06 Tax Collector to provide forms
- 36.07 Situs
- 36.08 Administration

- 36.99 Penalty

' 36.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CUSTOMER. Any person that leases or rents a vehicle on a short-term lease or rental basis.

GENERAL STATUTES. Refers to the North Carolina General Statutes and any reference to a particular section thereof shall include the same as may be from time to time amended, modified, supplemented, revised or superseded.

GROSS RECEIPTS. The amount that is or would be reported as gross receipts on a business's state income tax return, or on the federal income tax return filed with the state income tax return if the state return does not separately state gross receipts for the most recently completed tax year. Taxes collected hereunder are not subject to the tax herein imposed and are not included in gross receipts.

LEASE or RENTAL. A transfer, for consideration, of the use but not the ownership of property to another for a period of time. (G. S. ' 105-164.3 (7a))

LONG-TERM LEASE OR RENTAL. A lease or rental made under a written agreement to lease or rent property to the same person for a period of at least 365 continuous days. (G.S. ' 105-187.1(3))

SHORT-TERM LEASE OR RENTAL. Any lease or rental of a vehicle that is not a long-term lease rental. (G. S. ' 160A-215.1(e)(2) and 105-187.1(4))

TAX COLLECTOR. Refers to that individual appointed by the governing body pursuant to G. S. ' 105-349, (the provisions of the municipal charter), to collect taxes on behalf of the town and any other person authorized to carry out the duties and functions of such individual.

TAXPAYER. Any person liable for the taxes imposed by this chapter.

VEHICLE.

(1) A motor vehicle of the private passenger type, including a passenger van, minivan, or sport utility vehicle.

(2) A motor vehicle of the cargo type, including a cargo van, pickup truck, or truck with a gross vehicle weight of 26,000 pounds or less used predominantly in the transportation of property for other than commercial freight, and that does not require the operator to possess a commercial drivers license.

(3) A trailer or semi-trailer with a gross vehicle weight of 6,000 pounds or less.
(G. S. ' 160A-215.1(e)(1))
(Ord. passed 6-5-00)

' 36.02 LEVY OF TAX.

A tax is hereby imposed and levied in an amount equal to 1.5% of the gross receipts derived from the short-term lease or rental of vehicles at retail to the general public. This tax on gross receipts is in addition to the privilege taxes authorized by G.S. ' 160A-211.
(Ord. passed 6-5-00) Penalty, see ' 36.99

' 36.03 COLLECTION OF TAX.

Every person engaged in the business of the short-term lease or rental of vehicles at retail to the general public shall collect at the time of the lease or rental the tax herein levied, place the tax so collected in a segregated account, and thereafter remit such tax to the Tax Collector in accordance with the provisions of this chapter. The taxpayer shall include a provision in each retail short-term lease or rental agreement stating that the percentage amount enacted by this chapter of the total lease or rental price, excluding sales tax, is being charged as a tax on gross receipts. The amount of the tax shall be stated separately from the lease or rental and shown separately on the taxpayer's records. The tax shall be paid by the customer to the taxpayer as trustee for and on account of the town. The taxpayer shall be liable for the collection thereof and for its payment to the Tax Collector and the taxpayer's failure to charge or to collect the tax from the customer shall not affect such liability.
(Ord. passed 6-5-00) Penalty, see ' 36.99

' 36.04 REPORT AND PAYMENT OF TAX.

Taxes levied under this chapter are due and payable when a return is required to be filed. Every taxpayer shall, within the time specified, submit a return to the Tax Collector on the form prescribed by the Tax Collector. A return must be signed by the taxpayer or the taxpayer's agent. Returns of taxpayers are due to the Tax Collector each month on or before the fifteenth day of the month following the month in which the tax accrues. As provided in G.S ' 160A-208.1, a return shall not be considered a public record and information contained in a return may be disclosed only in accordance therewith.

(Ord. passed 6-5-00)

' 36.05 TAXPAYER TO KEEP RECORDS.

The taxpayer shall keep and preserve suitable records of the gross receipts received by such taxpayer in the conduct of business and such other books or accounts as may be necessary to determine the amount of the tax for which such taxpayer is liable under the provisions of this chapter. It shall be the duty of the taxpayer to keep and preserve for a period of three years all such records of gross receipts and other books and accounts described. All records, books and accounts herein described shall be open for examination at all reasonable hours during the day by the Tax Collector or his duly authorized agent.

(Ord. passed 6-5-00)

' 36.06 TAX COLLECTOR TO PROVIDE FORMS.

The Tax Collector shall design, prepare, print and make available to all taxpayers operating within the municipal boundaries of the town forms and instructions for filing returns to insure a full collection of and an accounting for taxes due. The failure of any taxpayer to obtain or receive forms shall not relieve such taxpayer from the payment of the tax at the time and in the manner provided.

(Ord. passed 6-5-00)

' 36.07 SITUS.

The transaction giving rise to the tax herein levied shall be deemed to have occurred at the location of the entity from which the customer takes delivery of the vehicle.

(G. S. ' 160A-215.1(b)) (Ord. passed 6-5-00)

' 36.08 ADMINISTRATION.

In addition to the provisions herein, the levy and collection of the taxes herein imposed shall be otherwise administered in the same manner as the sales and use tax as provided in G.S. Ch. 105, Art. 5, Subchapter 1.

(G.S. ' 160A-215.1(d)) (Ord. passed 6-5-00)

' 36.99 PENALTY.

The provisions with respect to remedies and penalties applicable to G.S. Ch. 105, Subchapter VIII (Local Government Sales and Use Tax), as contained in G.S. Ch. 105, Arts. 5 and 9, Subchapter 1 thereof, shall be applicable in like manner to the tax authorized to be levied and collected under this chapter, to the extent that the same are not inconsistent with the provisions hereof. The governing body of the town may exercise any power the Secretary of Revenue may exercise in collecting sales and use taxes.

(G.S. ' 160A-215.1(f)) (Ord. passed 6-5-00)