

TITLE III: ADMINISTRATION

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CHAPTER 30: MAYOR AND BOARD OF COMMISSIONERS

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GENERAL PROVISIONS**' 30.01 COUNCIL-MANAGER FORM OF GOVERNMENT.**

(A) Pursuant to G.S. " 160A-101 and 160A-102, the Charter of the town, as set forth in Chapter 63 of the 1935 Private 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, Article 7, Part 2, and any Charter provisions not in conflict therewith.

(B) The Town Clerk shall cause a notice to be duly published, stating that an ordinance amending the Charter to adopt the Council-Manager form of government has been adopted. Subject to any referendum petitioned for and conducted pursuant to G.S. ' 160A-103, this section shall be in full force and effect from and after September 15, 2006.

(1993 Code, ' 20.01) (Ord. 181, passed 8-15-2006)

' 30.02 POWERS AND DUTIES.

The powers and duties of the governing body shall be as set out in the general statutes of the state, the Town Charter and the ordinances of the town.

(1993 Code, ' 20.02)

' 30.03 MAYOR; DUTIES.

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

(A) Keep himself or herself informed as to the town's business;

(B) Preside over the meetings of the Board of Commissioners;

(C) Sign all contracts, ordinances, resolutions, franchises and all other documents as authorized by the Board;

(D) Appoint all committees and outline their duties, under the general direction of the Board;

(E) Make recommendations to the Board concerning the affairs of the town, as he or she deems necessary;

(F) Represent the town at ceremonies and other official occasions; and

(G) Perform other duties as authorized by the general statutes, the Town Charter and this code.

(1993 Code, ' 20.03)

Statutory reference:

Duties of the Mayor, see G.S. ' 160A-69

' 30.04 MAYOR PRO TEM.

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

(1993 Code, ' 20.04)

Statutory reference:

Mayor Pro Tem, see G.S. ' 160A-70

RULES OF PROCEDURE**' 30.15 REGULAR MEETINGS.**

The Board shall hold a regular meeting on the second Thursday of each month, except that if a regular meeting day is a legal holiday, the meeting shall be held on the next business day. The meeting shall be held at the Robbins Town Hall and shall begin at 6:00 p.m. A copy of the Board's current meeting schedule shall be filed with the Town Clerk.

(Ord. 187, passed 10-14-2010)

' 30.16 SPECIAL, EMERGENCY AND RECESSED MEETINGS.**(A) *Special meetings.***

(1) The Mayor, the Mayor Pro Tempore or any two members of the Board may at any time call a special Board meeting by signing a written notice, stating the time and place of the meeting and the subjects to be considered. At least 48 hours before a special meeting called in this manner, written notice of the meeting stating its time and place and the subjects to be considered shall be: delivered to the Mayor and each Commissioner or left at his or her usual dwelling place; posted on the Board's principal bulletin board, or if none, at the door of the Board's usual meeting room; and mailed or delivered to each newspaper, wire service, radio station, television station and person who has filed a written request for notice with the Town Clerk. Only those items of business specified in the notice may be transacted at a special meeting called in this manner, unless all members are present or have signed a written waiver of notice. Even in such a case, the Board shall only discuss or transact items of business not specified in the notice if it determines in good faith at the meeting that it is essential to discuss or act on the item immediately.

(2) A special meeting may also be called or scheduled by vote of the Board in open session during another duly called meeting. The motion or resolution calling or scheduling the special meeting shall specify its time, place and purpose. At least 48 hours before a special meeting called in this manner, notice of the time, place and purpose of the meeting shall be: posted on the Board's principal bulletin board, or if none, at the door of the Board's usual meeting room; and mailed or delivered to each newspaper, wire service, radio station, television station and person who has filed a written request for notice with the Town Clerk. Only those items of business specified in the notice may be discussed or transacted at a special meeting called in this manner, unless all members are present or those not present have signed a written waiver of notice, and the Board determines in good faith at the meeting

that it is essential to discuss or act on the item immediately.

(B) *Emergency meetings.*

(1) Emergency meetings of the Board of Commissioners may be called only because of generally unexpected circumstances that require immediate consideration by the Board. Only business connected with the emergency may be considered at an emergency meeting. One of the following two procedures must be followed to call an emergency meeting of the Board.

(a) The Mayor, the Mayor Pro Tempore or any two members of the Board may at any time call an emergency Board 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 Commissioner or left at his or her usual dwelling place at least six hours before the meeting.

(b) An emergency meeting may be held at any time when the Mayor and all members of the Board are present and consent thereto, or when those not present have signed a written waiver of notice, but only in either case if the Board complies with the notice provisions of the next paragraph.

(2) Notice of an emergency meeting under divisions (B)(1)(a) or (b) above shall be given to each local newspaper, local wire service, local radio station and local television station that has filed a written emergency meeting notice request, which includes the newspaper's, wire service's or station's telephone number, with the Town Clerk. This notice shall be given either by telephone or by the same method used to notify the Mayor and the Commissioners and shall be given at the expense of the party notified.

(C) *Recessed or adjourned meetings.* A properly called regular, special or emergency meeting may be recessed or adjourned to a time and place certain by a procedural motion made and adopted as provided in Rule 18, Motion 2, in open session during the regular, special or emergency meeting. The motion shall state the time and place when the meeting will reconvene. No further notice need be given of a recessed or adjourned session of a properly called regular, special or emergency meeting.
(Ord. 187, passed 10-14-2010)

' **30.17 ORGANIZATIONAL MEETINGS.**

On the date and at the time of the first regular meeting in December following a general election in which Commissioners are elected, or at an earlier date, if any, set by the incumbent Board, the newly elected members shall take and subscribe the oath of office as the first order of new business. As the second order of new business, the Board shall elect a Mayor, if he or she is not elected as such by the voters, and a Mayor Pro Tempore. This organizational meeting shall not be held before the municipal election results are officially determined, certified and published in accordance with G.S. ' 163-9.
(Ord. 187, passed 10-14-2010)

' **30.18 AGENDA.**

(A) *Proposed agenda.* The Town Clerk or chief administrative officer shall prepare a proposed agenda for each meeting. A request by any member of the public to have an item of business placed on the agenda must be received at least two working days before the meeting. Any Commissioner may, by a timely request, have an item placed on the proposed agenda. A copy of all proposed ordinances shall

be attached to the proposed agenda. An agenda package shall be prepared that includes, for each item of business placed on the proposed agenda, as much background information on the subject as is available and feasible to reproduce. Each Commissioner shall receive a copy of the proposed agenda and the agenda package and they shall be available for public inspection and distribution or copying when they are distributed to the Commissioners.

(B) *Adoption of the agenda.*

(1) As its first order of business at each meeting, the Board shall, as specified in ' 30.20, discuss and revise the proposed agenda and adopt an agenda for the meeting. If items are proposed to be added to the agenda of a meeting, the Board may, by majority vote, require that written copies of particular documents connected with the items be made available at the meeting to all Commissioners.

(2) The Board may by majority vote add items to or subtract items from the proposed agenda, except that: the Board may not subtract items from the proposed agenda stated in the notice of a special meeting called by the Mayor, Mayor Pro Tempore or two Commissioners, unless those calling the meeting consent to the deletion; the Board may not add items to the proposed agenda stated in the notice of a special meeting called by the Mayor, Mayor Pro Tempore or two Commissioners, unless all members are present, or those who are absent sign a written waiver of notice; and only business connected with the emergency may be considered at an emergency meeting. The Board may add items to the proposed agenda of a special meeting only if it determines in good faith at the meeting that it is essential to discuss or act on the item immediately.

(3) The Board may designate certain agenda items Afor discussion and possible action@. The designation means that the Board intends to discuss the general subject area of that agenda item before making any motion concerning that item.

(C) *Consent agenda.* The Board may designate a part of the agenda as the Aconsent agenda@. Items shall be placed on the consent agenda by those preparing the proposed agenda if they are judged to be noncontroversial and routine. Any member may remove an item from the consent agenda and place it on the regular agenda while the agenda is being discussed and revised prior to its adoption at the beginning of the meeting. All items on the consent agenda shall be voted on and adopted by a single motion, with the minutes reflecting the motion and vote on each item.

(D) *Open meetings requirements.* The Board shall not deliberate, vote or otherwise take action on any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the Board to understand what is being deliberated, voted or acted on. The Board may, however, deliberate, vote or otherwise take action by reference to an agenda, if copies of the agendaCsufficiently worded to enable the public to understand what is being deliberated, voted or acted onCare available for public inspection at the meeting.

(Ord. 187, passed 10-14-2010)

' 30.19 PUBLIC ADDRESS TO THE BOARD.

Any individual or group who wishes to address the Board shall make a request to be on the agenda to the Town Clerk or chief administrative officer. However, the Board shall determine at the meeting whether it will hear the individual or group. Any and all public addresses to the Board shall be limited to five minutes. If the Board determines that additional time is required to effectively hear the individual or

group, the Board may exceed the time limit at its discretion.
(Ord. 187, passed 10-14-2010)

' 30.20 ORDER OF BUSINESS.

(A) Items shall be placed on the agenda according to the order of business.

(B) The order of business for each regular meeting shall be as follows:

- (1) Approval of consent agenda;
- (2) Public address to the Board;
- (3) Public hearing (if applicable);
- (4) Reports;
- (5) Unfinished business;
- (6) New business; and
- (7) Comments from Commissioners (limited to five minutes each).

(C) By general consent of the Board, items may be considered out of order.
(Ord. 187, passed 10-14-2010)

' 30.21 OFFICE OF MAYOR.

(A) If the Mayor is not elected as such by the voters, the Board shall, at the organizational meeting described in ' 30.17 above, elect one of its members to serve as Mayor for a term certain. The Mayor shall preside at all meetings of the Board, but shall have the right to vote only when there is a tie. In order to address the Board, a member must be recognized by the Mayor.

(B) The Mayor or other presiding officer shall have the following powers:

- (1) To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
- (2) To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
- (3) To entertain and answer questions of parliamentary law or procedure;
- (4) To call a brief recess at any time; and
- (5) To adjourn in an emergency.

(C) A decision by the presiding officer under divisions (B)(1), (2) or (3) above may be appealed to the Board upon motion of any member, pursuant to Rule 18(b), Motion 1. Such a motion is in order

immediately after a decision under divisions (B)(1), (2) or (3) is announced and at no other time. The member making the motion need not be recognized by the presiding officer, and the motion if timely made may not be ruled out of order.

(Ord. 187, passed 10-14-2010)

' 30.22 OFFICE OF MAYOR PRO TEMPORE.

(A) At the organizational meeting, the Board shall elect from among its members a Mayor Pro Tempore to serve at the Board's pleasure. A Commissioner who serves as Mayor Pro Tempore shall be entitled to vote on all matters and shall be considered a Commissioner for all purposes, including the determination of whether a quorum is present. In the Mayor's absence, the Board may confer on the Mayor Pro Tempore any of the Mayor's powers and duties.

(B) If the Mayor should become physically or mentally unable to perform the duties of his or her office, the Board may by unanimous vote declare that the Mayor is incapacitated, and confer any of the Mayor's powers and duties on the Mayor Pro Tempore. When a Mayor declares that he or she is no longer incapacitated, and a majority of the Board concurs, the Mayor shall resume the exercise of his or her powers and duties. If both the Mayor and Mayor Pro Tempore are absent from a meeting, the Board may elect from among its members a temporary Chairperson to preside at the meeting.

(Ord. 187, passed 10-14-2010)

' 30.23 WHEN THE PRESIDING OFFICER IS IN ACTIVE DEBATE.

If the Mayor or other presiding officer becomes actively engaged in debate on a particular proposal, he or she shall designate another Commissioner to preside over the debate. The Mayor or other presiding officer shall resume presiding as soon as action on the matter is concluded.

(Ord. 187, passed 10-14-2010)

' 30.24 ACTION BY THE BOARD.

The Board shall proceed by motion, except as otherwise provided for in ' 30.18, and in ' 30.45. Any member may make a motion.

(Ord. 187, passed 10-14-2010)

' 30.25 SECOND NOT REQUIRED.

A motion shall not require a second; but a second may be made without prejudice.

(Ord. 187, passed 10-14-2010)

' 30.26 ONE MOTION AT A TIME.

A member may make only one motion at a time.

(Ord. 187, passed 10-14-2010)

' 30.27 SUBSTANTIVE MOTIONS.

A substantive motion is out of order while another substantive motion is pending.
(Ord. 187, passed 10-14-2010)

' 30.28 ADOPTION BY MAJORITY VOTE.

A motion shall be adopted by a majority of the votes cast, a quorum as defined in ' 30.41 being present, unless otherwise required by these rules or the laws of the state. A majority is more than half.
(Ord. 187, passed 10-14-2010)

' 30.29 VOTING BY WRITTEN BALLOT.

The Board may choose by majority vote to use written ballots in voting on a motion. The ballots shall be signed, and the minutes of the Board shall show the vote of each member voting. The ballots shall be available for public inspection in the office of the Town Clerk immediately following the meeting at which the vote took place and until the minutes of that meeting are approved, at which time the ballots may be destroyed.
(Ord. 187, passed 10-14-2010)

' 30.30 DEBATE.

The Mayor shall state the motion and then open the floor to debate on it. The Mayor shall preside over the debate according to the following general principles:

(A) The maker of the motion is entitled to speak first;

(B) A member who has not spoken on the issue shall be recognized before someone who has already spoken; and

(C) To the extent possible, the debate shall alternate between proponents and opponents of the measure.
(Ord. 187, passed 10-14-2010)

' 30.31 RATIFICATION OF ACTIONS.

To the extent permitted by law, the Board may ratify actions taken on its behalf but without its prior approval. A motion to ratify is a substantive motion.
(Ord. 187, passed 10-14-2010)

' 30.32 PROCEDURAL MOTIONS.

(A) *Certain motions allowed.* In addition to substantive proposals, only the following procedural motions, and no others, are in order. Unless otherwise noted, each motion is debatable, may be amended and requires a majority of the votes cast, a quorum being present, for adoption. Procedural motions are in order while a substantive motion is pending and at other times, except as otherwise noted.

(B) *Order of priority of motions.* In order of priority (if applicable), the procedural motions are:

(1) Motion 1: To Appeal a Procedural Ruling of the Presiding Officer. A decision of the presiding officer ruling a motion in or out of order, determining whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks, or entertaining and answering a question of parliamentary law or procedure may be appealed to the Board, as specified in ' 30.21. This appeal is in order immediately after such a decision is announced and at no other time. The member making the motion need not be recognized by the presiding officer and the motion, if timely made, may not be ruled out of order;

(2) Motion 2: To Adjourn. This motion may be made only at the conclusion of Board consideration of a pending substantive matter; it may not interrupt deliberation of a pending matter. A motion to recess or adjourn to a time and place shall also comply with the requirements of ' 30.16(C);

(3) Motion 3: To Take a Brief Recess;

(4) Motion 4: Call to Follow the Agenda. The motion must be made at the first reasonable opportunity, or the right to make it is waived for the out-of-order item in question;

(5) Motion 5: To Suspend the Rules. The Board may not suspend provisions of the rules that state requirements imposed by law on the Board. For adoption, the motion requires a vote equal to two-thirds of the actual membership of the Board, excluding the Mayor, unless he or she may vote in all cases, and vacant seats;

(6) Motion 6: To Go into Closed Session. The Board may go into closed session only for one or more of the permissible purposes listed in G.S. ' 143-318.11(a) as amended or replaced. The motion to go into closed session shall cite one or more of these purposes and shall be adopted at an open meeting. A motion based on G.S. ' 143-318.11(a)(1) as amended or replaced shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on G.S. ' 143-318(a)(3) as amended or replaced shall identify the parties in each existing lawsuit concerning which the Board expects to receive advice during the closed session, if in fact the advice is to be received;

(7) Motion 7: To Leave Closed Session. Public bodies must return to open session after a closed session, even if only to adjourn;

(8) Motion 8: To Divide a Complex Motion and Consider it by Paragraph. The motion is in order whenever a member wishes to consider and vote on subparts of a complex motion separately;

(9) Motion 9: To Defer Consideration. The Board may defer a substantive motion for later consideration at an unspecified time. A substantive motion the consideration of which has been deferred expires 100 days thereafter unless a motion to revive consideration is adopted. If consideration of a motion has been deferred, a new motion with the same effect cannot be introduced while the deferred motion remains pending. A member who wishes to revisit the matter during that time must take action to revive consideration of the original motion (Rule 18(b), Motion 14), or else move to suspend the rules (Rule 18(b), Motion 5);

(10) Motion 10: Motion for the Previous Question. The motion is not in order until there have

been at least 20 minutes of debate, and every member has had an opportunity to speak once;

(11) Motion 11: To Postpone to a Certain Time or Day. If consideration of a motion has been postponed, a new motion with the same effect cannot be introduced while the postponed motion remains pending. A member who wishes to revisit the matter must either wait until the specified time, or move to suspend the rules (Rule 18(b), Motion 5);

(12) Motion 12: To Refer a Motion to a Committee. The Board may vote to refer a substantive motion to a to a committee for its study and recommendations. Sixty days or more after a substantive motion has been referred to a committee, the introducer of the substantive motion may compel consideration of the measure by the entire Board, whether or not the committee has reported the matter to the Board;

(13) Motion 13: To Amend.

(a) An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the motion with that amendment added would have the same effect as rejection of the original morion. A proposal to substitute completely different wording for a motion or an amendment shall be treated as a motion to amend.

(b) A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last-offered amendment is disposed of by a vote.

(c) Any amendment to a proposed ordinance or order or policy or resolution shall be reduced to writing before the vote on the amendment

(14) Motion 14: To Revive Consideration. The Board may vote to revive consideration of any substantive motion earlier deferred by adoption of Motion 9 of Rule 18(b). The motion is in order at any time within 100 days after the day of a vote to defer consideration. A substantive motion on which consideration has been deferred expires 100 days after the deferral unless a motion to revive consideration is adopted;

(15) Motion 15: To Reconsider. The Board may vote to reconsider its action on a matter. The motion to do so must be made by a member who voted with the prevailing side (the majority side except in the case of a tie; in that case the Anos@ prevail) and at the meeting during which the original vote was taken, including any continuation of that meeting through recess (or adjournment) to a time and place certain. The motion cannot interrupt deliberation on a pending matter, but is in order at any time before final adjournment of the meeting;

(16) Motion 16: To Rescind or Repeal. The Board may vote to rescind actions it has previously taken or to repeal items that it has previously adopted. The motion is not in order if rescission or repeal of an action is forbidden bylaw; and

(17) Motion 17: To Prevent Reintroduction for Six Months. The motion shall be in order immediately following the defeat of a substantive motion, and at no other time. The motion requires for adoption a vote equal to two-thirds of the actual membership of the Board excluding the Mayor, unless he or she may vote in all cases, and vacant seats. If adopted, the restriction imposed by the motion remains in effect for six months or until the next organizational meeting of the Board, whichever occurs first.

(Ord. 187, passed 10-14-2010)

' 30.33 RENEWAL OF MOTION.

A motion that is defeated may be renewed at any later meeting unless a motion to prevent reintroduction has been adopted.
(Ord. 187, passed 10-14-2010)

' 30.34 WITHDRAWAL OF MOTION.

A motion may be withdrawn by the introducer at any time before it is amended or before the presiding officer puts the motion to a vote, whichever occurs first.
(Ord. 187, passed 10-14-2010)

' 30.35 DUTY TO VOTE.

Every member must vote unless excused by the remaining members according to law. A member who wishes to be excused from voting shall so inform the presiding officer, who shall take a vote of the remaining members. No member shall be excused from voting except upon matters involving the consideration of his or her own financial interest or official conduct. In all other cases, a failure to vote by a member who is physically present in the Chamber of the Board, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.
(Ord. 187, passed 10-14-2010)

' 30.36 INTRODUCTION OF ORDINANCES.

A proposed ordinance shall be deemed to be introduced on the date the subject matter is first voted on by the Board.
(Ord. 187, passed 10-14-2010)

' 30.37 ADOPTION OF ORDINANCES AND APPROVAL OF CONTRACTS.

(A) *Generally.* An affirmative vote equal to a majority of all the members of the Board not excused from voting on the question in issue (including the Mayor's vote in case of an equal division) shall be required to adopt an ordinance, to take any action that has the effect of an ordinance, or to make, ratify or authorize any contract on behalf of the town. Notwithstanding the foregoing sentence, the manager may approve contracts for \$10,000 or less without prior Board approval in accordance with ' 31.01. In addition, no ordinance or action that has the effect of an ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two-thirds of all the actual membership of the Board, excluding vacant seats, and not including the Mayor unless he or she has the right to vote on all questions before the Board. No ordinance shall be adopted unless it has been reduced to writing before a vote on adoption is taken.

(B) *Zoning protest petitions.* An affirmative vote equal to three-fourths of all the members of the Board of Commissioners shall be required for an ordinance making a change in a zoning regulation, restriction or boundary to become effective, if a valid protest petition is received in accordance with the requirements set out in G.S. " 160A-385(a) and 160A-386. This rule shall not apply in those cases excepted by G.S. ' 160A-385(a).

(Ord. 187, passed 10-14-2010; Ord. 227, passed 2-14-2013)

' 30.38 ADOPTION OF THE BUDGET ORDINANCE.

(A) Notwithstanding the provisions of any city charter, general law or local act:

(1) Any action with respect to the adoption or amendment of the budget ordinance may be taken at any regular or special meeting of the Board by a simple majority of those present and voting, a quorum being present;

(2) No action taken with respect to the adoption or amendment of the budget ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the Board; and

(3) The adoption and amendment of the budget ordinance and the levy of taxes in the budget ordinance are not subject to the provisions of any city charter or local act concerning initiative or referendum.

(B) During the period beginning with the submission of the budget to the Board and ending with the adoption of the budget ordinance, the Board may hold any special meetings that may be necessary to complete its work on the budget ordinance.

(1) Except for the notice requirements of the open meetings law, which continue to apply, no provision of law concerning the call of special meetings applies during that period so long as:

(a) Each member of the board has actual notice of each special meeting called for the purpose of considering the budget; and

(b) No business other than consideration of the budget is taken up.

(2) This rule does not allow, and may not be construed to allow, the holding of closed meetings or executive sessions by the Board if it is otherwise prohibited by law from holding such a meeting or session.

(Ord. 187, passed 10-14-2010)

' 30.39 SPECIAL RULES OF PROCEDURE.

The Board may adopt its own special rules of procedure, to be specified here.

(Ord. 187, passed 10-14-2010)

' 30.40 CLOSED SESSIONS.

(A) The Board may hold closed sessions as provided by law. The Board shall only commence a closed session after a motion to go into closed session has been made and adopted during an open meeting. The motion shall state the purpose of the closed session. The motion to go into closed session must be approved by the vote of a majority of those present and voting. The Board shall terminate the closed session by a majority vote. Only those actions authorized by statute may be taken in closed session. A motion to adjourn or recess shall not be in order during a closed session.

(B) Permitted purposes:

(1) To prevent the disclosure of information that is privileged or confidential pursuant to the law of this state or of the United States, or not considered a public record within the meaning of G.S. Ch. 132. If the motion is based on G.S. ' 143-318.11(a)(1) (closed session to prevent the disclosure of privileged or confidential information or information that is not considered a public record), it must also state the name or citation of the law that renders the information to be discussed privileged or confidential;

(2) To prevent the premature disclosure of an honorary degree, scholarship, prize or similar award;

(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant the public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded. If the motion is based on G.S. ' 143-318.11(a)(3) (consultation with attorney; handling or settlement of claims, judicial actions or administrative procedures), it must identify the parties in any existing lawsuits concerning which the public body expects to receive advice during the closed session;

(4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. The action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session;

(5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating: the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease; or the amount of compensation and other material terms of an employment contract or proposed employment contract;

(6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character,

fitness, appointment or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting;

(7) To plan, conduct or hear reports concerning investigations of alleged criminal misconduct;

(8) To formulate plans by a local board of education relating to emergency response to incidents of school violence; and

(9) To discuss and take action regarding plans to protect public safety as it relates to existing or potential terrorist activity and to receive briefings by staff members, legal counsel or law enforcement or emergency service officials concerning actions taken or to be taken to respond to the activity.

(Ord. 187, passed 10-14-2010)

' 30.41 QUORUM.

A majority of the actual membership of the Board plus the Mayor, excluding vacant seats, shall constitute a quorum. A majority is more than half. 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.

(Ord. 187, passed 10-14-2010)

' 30.42 PUBLIC HEARINGS.

(A) Public hearings required by law or deemed advisable by the Board shall be organized by a special order (adopted by a majority vote) that sets forth the subject, date, place and time of the hearing as well as any rules regarding the length of time allotted for each speaker, and other pertinent matters. The rules may include, but are not limited to, rules: fixing the maximum time allotted to each speaker; providing for the designation of spokespersons for groups of persons supporting or opposing the same positions; providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall (so long as arrangements are made, in the case of hearings subject to the open meetings law, for those excluded from the hall to listen to the hearing); and providing for the maintenance of order and decorum in the conduct of the hearing.

(B) All notice and other requirements of the open meetings law applicable to Board meetings shall also apply to public hearings at which a majority of the Board is present; such a hearing is considered to be part of a regular or special meeting of the Board. These requirements also apply to hearings conducted by appointed or elected committees of the Board, if a majority of the committee is present. A public hearing for which any notices required by the open meetings law or other provisions of law have been given may be continued to a time and place certain without further advertisement. The requirements of ' 30.16(C) above shall be followed in continuing a hearing at which a majority of the Board is present.

(C) The Board may vote to delegate to city staff members, as appropriate, the authority to schedule, call and give notice of public hearings required by law or the Board. The Board shall provide adequate guidelines to assist staff members in fulfilling this responsibility, and it shall not delegate the

responsibility in cases where the Board itself is required by law to call, schedule, or give notice of the hearing.

(D) At the time appointed for the hearing, the Mayor or his or her designee shall call the hearing to order and then preside over it. When the allotted time expires or when no one wishes to speak who has not done so, the presiding officer shall close the hearing.
(Ord. 187, passed 10-14-2010)

' 30.43 QUORUM AT PUBLIC HEARINGS.

A quorum of the Board shall be required at all public hearings required by state law. If a quorum is not present at such a hearing, the hearing shall be continued until the next regular Board meeting without further advertisement.
(Ord. 187, passed 10-14-2010)

' 30.44 MINUTES.

(A) Full and accurate minutes of the Board proceedings, including closed sessions, shall be kept. The Board shall also keep a general account of any closed session so that a person not in attendance would have a reasonable understanding of what transpired. These minutes and general accounts shall be open to inspection of the public, except as otherwise provided in this rule. The exact wording of each motion and the results of each vote shall be recorded in the minutes, and on the request of any member of the Board, the Ayes@ and Anos@ upon any question shall be taken. Members' and other persons' comments may be included in the minutes if the Board approves.

(B) Minutes and general accounts of closed sessions may be sealed by action of the Board. The sealed minutes and general accounts may be withheld from public inspection so long as public inspection would frustrate the purpose of the closed session.
(Ord. 187, passed 10-14-2010)

' 30.45 APPOINTMENTS.

(A) *Mayor and Board.*

(1) In the event a vacancy occurs in a Board, seat or the Mayor's office, the Board shall fill the vacant seat by appointing a replacement member.

(a) If the person leaving office was serving a two-year term, or was in or near the least half of a four-year term, the appointee serves for the remainder of the unexpired term.

(b) If the person leaving office was in the first two years of a four-year term, however, and the vacancy occurs more than 90 days before the next municipal election, voters will select a candidate to fill the last two years of the term. The person appointed to the vacancy must be qualified to run for and hold the office; that is, the person must be a registered voter resident in the city and, if appropriate, in the proper Board district; if city elections are partisan, the person also must be of the same party as the person who vacated the seat (G.S. ' 160A-63).

(2) Intent to vote to fill a vacancy must be announced in an open meeting at least 30 days

before a meeting at which voting to fill the vacancy occurs; and must be advertised in one edition of a local newspaper. The advertisement shall run in an edition of a local newspaper, no later than 14 days before a meeting at which voting to fill the vacancy occurs. Intent to vote to fill a vacancy must appear on the agenda at the meeting at which voting to fill the vacancy occurs.

(3) A written application by, or written nomination of, a resident to fill a vacancy must be filed with the Town Clerk on a business day no later than seven days before the Board meeting scheduled for voting to fill the vacancy, for that person to be considered for appointment to that vacancy.

(4) For each vacant seat the names of each candidate for that individual seat shall be considered. The Commissioners then vote, with the candidate receiving the majority, being appointed to that seat.

(B) *Other bodies.* The Board may consider and make appointments to other bodies, including its own committees, if any, only in open session. The Board may not consider or fill a vacancy among its own membership except in open session.

(1) The Mayor shall not have a right to vote on appointments that come before the Board.

(2) Rather than proceeding by motion, the Board shall use the following procedure to make appointments to various other boards and offices: The Mayor shall open the floor for nominations, whereupon the names of possible appointees for a specific office may be put forward by the Commissioners.

(3) The names submitted shall be debated. When the debate ends, the Mayor shall call the roll of the members, and each member shall cast his or her vote.

(4) The nominee(s) receiving the highest number of votes shall be appointed. If more than one appointee is to be selected, then each member shall have as many votes as there are slots to be filled. A member must cast all of his or her votes and cast them for different nominees.
(Ord. 187, passed 10-14-2010)

' 30.46 COMMITTEES AND BOARDS.

(A) *Establishment and appointment.* The Board or the Mayor, if the Mayor is delegated that power by the Board, may establish and appoint members for the temporary and standing city committees and boards as are needed to help carry on the work of city government. Any specific provisions of law relating to particular committees and boards shall be followed.

(B) *Open Meetings Law.* The requirements of the open meetings law shall apply to all elected or appointed authorities, boards, commissions, councils or other bodies of the city that are composed of two or more members and that exercise or are authorized to exercise legislative, policy-making, quasi-judicial, administrative or advisory functions. However, the law's requirements shall not apply to a meeting solely among the city's professional staff.
(Ord. 187, passed 10-14-2010)

' 30.47 AMENDMENT OF THE RULES.

These rules may be amended at any regular meeting or at any properly called special meeting that

includes amendment of the rules as one of the stated purposes of the meeting, so long as the amendment is consistent with the Town Charter, general law and generally accepted principles of parliamentary procedure. Adoption of an amendment shall require an affirmative vote equal to or greater than two-thirds of all the actual membership of the Board, excluding vacant seats, and not including the Mayor unless he or she has the right to vote on all questions before the Board.

(Ord. 187, passed 10-14-2010)

' 30.48 REFERENCE TO ROBERT'S RULES OF ORDER; REVISED.

To the extent not provided for in these rules, and to the extent it does not conflict with state law or with the spirit of these rules, the Board shall refer to Robert's Rules of Order newly revised, to answer unresolved procedural questions. Comment: these rules are derived directly from *Suggested Rules of Procedure for a City Council, Third Edition* by A Fleming Bell, II, and the comments therein shall apply hereto these rules, and are incorporated herein by reference as fully as if set forth herein.

(Ord. 187, passed 10-14-2010)

CHAPTER 31: OFFICERS AND EMPLOYEES

Section

- 31.01 Manager; duties
- 31.02 Clerk; duties
- 31.03 Town Attorney
- 31.04 Tax Collector; duties
- 31.05 Finance Officer
- 31.06 Social Security coverage

' 31.01 MANAGER; DUTIES.

(A) The Manager shall be the chief administrative officer of the town. He or she may also head one or more departments and shall be responsible to the Board of Commissioners for the proper administration of all affairs of the town.

(B) In accordance with G.S. " 160A-148 and 160A-162, the Manager shall have the power and be required to:

(1) Appoint and suspend or remove all town officers and employees not elected by the people, except those whose appointment or removal is otherwise provided for by law, in accordance with such general personnel rules, regulations, policies or ordinances as the Board of Commissioners may adopt;

(2) Direct and supervise the administration of all departments, offices and agencies of the town, subject to the general direction and control the Board of Commissioners, except as otherwise provided by law;

(3) Prepare the budget annually, including all funds of the town, without exception, and submit it to the Board of Commissioners together with a message describing the important features of the budget, and be responsible for its administration after adoption;

(4) Prepare the budget for and administer all other funds not required by state law to be included in the annual budget;

(5) Prepare and submit the annual capital program, if any, to the Board of Commissioners;

(6) Prepare and submit to the Board of Commissioners, as of the end of the fiscal year, a complete report on the finances and administrative activities of the town for the preceding year;

(7) Keep the Board of Commissioners advised of the financial condition and future needs of the town, and make such recommendations as he or she shall deem advisable;

(8) Prepare position classification and pay plans for submission to the Board of Commissioners, and after any such plans have been adopted by the Board, he or she shall administer them;

(9) Recommend to the Board of Commissioners adoption of such measures as he or she may deem necessary or expedient for the health, safety or welfare of the town or the improvement of the administrative services of the town;

(10) Attend all meetings of the Board of Commissioners, unless excused therefrom, and take part in the discussion of all matters coming before the Board of Commissioners, unless excused from participation;

(11) Supervise the purchase of all materials, supplies and equipment for which funds are provided in the budget;

(12) Let contracts necessary for the operation and maintenance of town services for amounts up to \$10,000 without prior authorization from the Board of Commissioners;

(13) Receive sealed bids for purchases or contracts in accordance with state law;

(14) Advise the Board of Commissioners on the advantages or disadvantages of contract and bid proposals;

(15) Issue policies governing purchasing procedures within the town government;

(16) See that all laws and ordinances of the state, the Charter, and all ordinances, resolutions, and regulations of the town are faithfully executed within the jurisdiction of town;

(17) Investigate all complaints in relation to matters concerning the administration of the government of the town, and in regard to service maintained by the public utilities in the town, and see that all franchises, permits, and privileges granted by the town are faithfully observed; and

(18) Perform other such duties as may be required by the Board of Commissioners, not inconsistent with the Town Charter, town ordinances or other law.
(Ord. 227, passed 2-14-2013)

' 31.02 CLERK; DUTIES.

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

(A) Act as secretary to the Board;

(B) Keep a true record of all the proceedings of the Board;

(C) Keep the original of all ordinances in a book especially provided for that purpose;

(D) Act as custodian for all the books, papers, records and journals of the Board; and

(E) Perform other duties as may be required by law or by the Town Manager.

(1993 Code, ' 21.01)

Statutory reference:

Duties of the Clerk specified, see G.S.

' 160A-171

Minutes to be kept, see G.S. ' 160A-72

' 31.03 TOWN ATTORNEY.

The Board shall appoint a Town Attorney whose duties, to the extent requested, shall be to:

(A) Prosecute or defend any and all suits or actions at law or equity to which the town may be a party, or in which it may be interested, or which may be brought against, or by, any officer of the town, or in the capacity of the person as an officer of the town;

(B) See to the full enforcement of all judgments or decrees rendered or entered in favor of the town;

(C) See to the completion of all special assessment proceedings and condemnation proceedings;

(D) Draft or review any contract, lease or other document or instrument to which the town may be a party, and approve all ordinances and resolutions of the Board as to form;

(E) At the request of the Board, draft ordinances covering any subjects within the power of the town;

(F) Attend meetings of the Board on request; and

(G) Perform any other duties required of him or her by G.S. ' 160A-173 and other laws and ordinances.

(1993 Code, ' 21.02)

Statutory reference:

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

' 31.04 TAX COLLECTOR; DUTIES.

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

(A) Cause the collection of all taxes and assessments due to the town;

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

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

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

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

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

(G) Perform other duties required by law, or as the Manager may direct.

(1993 Code, ' 21.03)

Statutory reference:

*Duties of Tax Collector, see G.S. " 105-349 and
105-350*

' 31.05 FINANCE OFFICER.

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

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

(B) Receive and disburse all moneys of the town as required under state law;

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

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

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

(F) Supervise the investment of idle funds; and

(G) Perform other duties assigned by the general statutes, the Town Charter, or by the Manager.
(1993 Code, ' 21.04)

Statutory reference:

*Duties of the Finance Officer, see G.S. ' 159-25
Fiscal control generally, see G.S. " 159-7
et seq.*

' 31.06 SOCIAL SECURITY COVERAGE.

Town employees shall be under Social Security coverage.
(1993 Code, ' 21.06) (Ord. 71, passed - -)

CHAPTER 32: TAX AND FINANCE

Section

32.01 Procedure for disbursement

' 32.01 PROCEDURE FOR DISBURSEMENT.

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

(B) No contract, agreement or purchase order shall be valid unless it bears the Clerk's certificate as follows: AThis instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.@

(1993 Code, ' 22.01)

Statutory reference:

*Pre-audit of disbursements required,
see G.S. ' 159-28*

CHAPTER 33: POLICIES AND PROCEDURES

Section

- 33.01 Town Hall not to be rented for dances or parties
- 33.02 Disposal of surplus personal property

' 33.01 TOWN HALL NOT TO BE RENTED FOR DANCES OR PARTIES.

Town Hall shall not be rented for dances or parties.
(1993 Code, ' 23.01) (Ord. 40, passed 1-5-1942)

' 33.02 DISPOSAL OF SURPLUS PERSONAL PROPERTY.

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

- (1) The item or group of items has a fair market value of less than \$500;
- (2) The property is no longer necessary for the conduct of the public business; and

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

(B) The Town Manager may dispose of any such 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. ' 160A-12. The sale may be public or private, and with or without notice and minimum waiting period.

(C) The surplus property shall be sold to the party who tenders the highest offer, or exchanged for any property or services useful to the town if greater value may be obtained in that manner, and the 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 or organization except by resolution of the Board of Commissioners.

(D) The Town Manager shall, on or before February 1, report in writing to the Board of Commissioners on any property disposed of under these provisions from July 1 through December 31 of

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

(1993 Code, ' 23.02) (Ord. 127, passed 2-1-1988)

CHAPTER 34: TOWN ORGANIZATIONS

Section

Police Department

- 34.01 Creation
- 34.02 Composition of Department
- 34.03 Duties of police officers
- 34.04 Personnel
- 34.05 Control and supervision over the Department
- 34.06 Conditions of employment
- 34.07 Requirements
- 34.08 Specific duties of the Police Chief
- 34.09 Auxiliary police

Fire Department

- 34.20 Fire limits; buildings constructed in
- 34.21 Explosives in town limits prohibited
- 34.22 Adoption of Fire Prevention Code
- 34.23 Enforcement
- 34.24 Definition
- 34.25 Modifications
- 34.26 Appeals
- 34.27 Organization
- 34.28 Duties of Fire Chief

Statutory reference:

*Town fire protection generally,
see G.S. " 160A-291 et seq.*

Cross-reference:

Farmer's Day Committee, see Ch. 115

POLICE DEPARTMENT

' 34.01 CREATION.

The Police Department is created subject to the terms, authority and conditions set out in " 34.02 through 34.08 below.
(1993 Code, ' 30.01)

' 34.02 COMPOSITION OF DEPARTMENT.

The Police Department shall consist of a Chief of Police and officers of designated grade as the Town Manager deems necessary.
(1993 Code, ' 30.02)

' 34.03 DUTIES OF POLICE OFFICERS.

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

(B) It shall be the duty of each member of the Police Department, on information furnished him or her, or on his or her knowledge of any violation of the ordinances of the town or of the laws of this state, to secure proper warrants for the arrest and trial of any and all offenders against any ordinances or laws. (1993 Code, ' 30.03)

' 34.04 PERSONNEL.

The Town Manager shall have the duty of hiring persons as may be necessary to man the Police Department and to provide the town with adequate police protection, together with the duty of discharging the members. (1993 Code, ' 30.04)

' 34.05 CONTROL AND SUPERVISION OVER THE DEPARTMENT.

The Chief of Police, subject to the general supervision of the Town Manager, is held responsible for the discipline, good order and proper conduct of the Department. (1993 Code, ' 30.05)

' 34.06 CONDITIONS OF EMPLOYMENT.

(A) Members of Police Department shall be appointed by the Town Manager after due examination by the Town Manager and based on the results of the examination.

(B) An appointee shall serve one year's probation. (1993 Code, ' 30.06)

' 34.07 REQUIREMENTS.

Every person appointed as a law enforcement officer shall:

- (A) Be a citizen of the United States;
- (B) Be at least 20 years of age;
- (C) Be of good moral character;
- (D) Be fingerprinted and a search made of local, state and federal fingerprint files;
- (E) Not have been convicted of a felony or an offense involving moral turpitude;
- (F) Have a high school diploma or its equivalent;

- (G) Pass an examination conducted by a physician employed by the town;
- (H) Be interviewed and approved by the Town Manager;
- (I) Be certified in accordance with state law; and
- (J) Be subject to a drug screening exam which shall produce a negative result.

(1993 Code, ' 30.07)

Statutory reference:

State law requires that law enforcement officers be certified by the Criminal Justice Training and Standards Council, see G.S. " 17C-10 and 17C-11

' 34.08 SPECIFIC DUTIES OF THE POLICE CHIEF.

(A) The Police Chief commands the force under his or her order, and is responsible for its discipline and efficiency. Further, he or she shall recommend to the Town Manager the reforms and changes in the Police Department which practical experience shows should be instituted. Periodically, the Chief may be required to make out a statement of conduct of the affairs of the Department, and shall include therein any suggestions for the improvement in the service or personnel of the Department.

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

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

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

(3) To require the proper submission and handling of the necessary required reports.

(1993 Code, ' 30.08)

' 34.09 AUXILIARY POLICE.

(A) Within the Town 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 Chief of Police and approved by the Town Manager.

(B) While undergoing official training and while performing duties on behalf of the town pursuant to the orders or instructions of the Chief of Police, auxiliary police officers shall be entitled to benefits under the State Worker's Compensation Act and to any fringe benefits for which those persons qualify.

(C) Auxiliary police shall be issued uniforms and equipment at the discretion of the Police Chief.

(D) Those members shall serve without compensation a minimum of 12 hours per month to be scheduled at the discretion of the Chief of Police. Failure to work the minimum hours for three consecutive months will result in immediate separation from the Police Department. Any other noncompliance that this office deems to be delinquent will be cause for separation.

(E) Compensation for auxiliary officers in the form of hourly pay, is to be an amount determined by the Town Manager, for work performed in excess of the minimum 24 hours per month approved by the Chief of Police and Town Manager.

(F) The Chief of Police shall have the discretion to pay auxiliary officers, regardless of hours worked, in the above described manner, during special events, emergencies and other unforeseen incidents that would impose undue hardship on police resources and manpower. The Chief of Police must document each individual request for payment within the weekly time sheet and it must be approved by the Town Manager. This should be accomplished while staying within budgeted parameters for auxiliary officers.

(G) Documentation of all hours served, whether compensated or not, shall be provided to the Police Chief and Town Hall.

(Ord. 183, passed 10-27-2006; Ord. 230, passed 3-14-2013)

FIRE DEPARTMENT

' 34.20 FIRE LIMITS; BUILDINGS CONSTRUCTED IN.

(A) In accordance with G.S. ' 160A-436, the primary fire limits of the town shall be as follows: beginning at 140 N. Middleton Street, continuing up Middleton Street to Salisbury Street, then left on to Salisbury Street and ending at Rockingham Street. The primary fire limits shall extend 150 feet back on both sides of the street.

(B) Within the primary fire limits, no frame or wooden building or structure or addition thereto shall hereafter be erected, altered, repaired or moved (either into the limits or from one place to another within the limits), except upon the permit of the local inspection department approved by the Board of Commissioners and by the Commissioner of Insurance or his or her designee.

(1993 Code, ' 31.01) (Ord. 24, passed - - ; Ord. 224, passed 12-13-2012)

' 34.21 EXPLOSIVES IN TOWN LIMITS PROHIBITED.

(A) The storage of any and all types of explosives is prohibited within the town limits.

(B) For the purposes of this section, Aexplosives@ are defined as any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, including but not limited to dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters. Explosives shall also include those materials listed as explosives in the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives publication AList of Explosive Materials@ (ATF Publication 5400.8) and in 13 N.C.A.C. 7F.0702(n).

(C) This section shall not apply to the lawful storage of gasoline, propane and other inflammable and/or explosive materials customarily kept in connection with a residence or other use specifically permitted by the Unified Development Ordinance Table of Permissible Uses (Chapter 152). For example, this section does not prohibit the storage of gasoline in tanks at a gas station or the storage and sale of ammunition and black powder by a licensed gun shop and licensed ammunition

manufacturer.

(1993 Code, ' 31.02) (Ord. 105, passed - -; Ord. 226, passed 2-14-2013; Ord. passed 8-8-2013)
Penalty, see ' 10.99

' 34.22 ADOPTION OF FIRE PREVENTION CODE.

The North Carolina Fire Prevention Code, as amended from time to time, is hereby adopted.
(1993 Code, ' 31.10)

' 34.23 ENFORCEMENT.

The code hereby adopted shall be enforced by the Chief of the Fire Department.
(1993 Code, ' 31.11)

' 34.24 DEFINITION.

Wherever the word **MUNICIPALITY** is used in the Fire Prevention Code adopted in ' 34.22 above, it shall be held to mean the Town of Robbins, North Carolina.
(1993 Code, ' 31.12)

' 34.25 MODIFICATIONS.

The Chief of the Fire Department shall have power to modify any of the provisions of the code hereby adopted on application in writing by the owner or lessee, or his or her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured and substantial justice done. The particulars of the modification when granted or allowed and the decision of the Chief of the Fire Department thereon shall be entered on the records of the Department and a signed copy shall be furnished the applicant.
(1993 Code, ' 31.13)

' 34.26 APPEALS.

Whenever the Chief of the Fire Department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the Board within 30 days from the date of the decision appealed.
(1993 Code, ' 31.14)

' 34.27 ORGANIZATION.

(A) The Fire Department shall consist of the Chief of the Fire Department and a sufficient number of volunteer firefighters to maintain and operate the Department.

(B) The Chief is authorized and empowered at his or her discretion to appoint in any emergencies he or she deems necessary, temporary members of the Department as he or she desires to serve as members temporarily, and each member so appointed shall be entitled to the same rights and benefits

as all other members of the Department for the duration of the temporary service, no matter how limited his or her length of service may be.

(1993 Code, ' 31.20)

' 34.28 DUTIES OF FIRE CHIEF.

The Fire Chief shall:

(A) Have general control of the Department, the personnel, apparatus and fire alarm systems;

(B) Command the Department and supervise the firefighting and extinguishing of all fires and shall have the authority to keep away from the vicinity of all fires any and all idle, disorderly or suspicious persons; and

(C) Inspect or cause to be inspected all trucks and other equipment of the Fire Department to ascertain that the equipment is being kept in proper condition. He or she shall report annually to the Board the condition of all equipment.

(1993 Code, ' 31.21)

CHAPTER 35: EMERGENCY MANAGEMENT

Section

- 35.01 Purpose
- 35.02 Emergency
- 35.03 Declaration of State of Emergency

35.01 PURPOSE.

The purpose of this chapter is to provide for procedures and regulatory measures, which set forth the responsibilities and authority of the Town in the event an emergency exists within the Town. The regulations are intended to reduce the vulnerability of the Town to loss of life, injury to persons or property and human suffering and financial loss resulting from emergencies and to assign authority and responsibilities to various Town officials, employees, and departments.

35.02 EMERGENCY.

A state of emergency includes any manmade or natural event or circumstance causing or threatening loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, hurricanes, volcanic activity, spills or release of oil or hazardous materials, contamination, utility or transportation emergencies, disease, blight infestation, civil disturbance, unrest, sabotage, acts of terrorism, and war.

35.03 DECLARATION OF STATE OF EMERGENCY

A. When circumstances so warrant, the Town Manager may request the declaration of an emergency from the Board of Commissioners. The Board shall consider the request at a regular, special, or emergency meeting and may declare an emergency in accordance with this section. If the nature of the emergency requires that immediate action be taken and it is not reasonably practicable for an emergency meeting of the Council prior to the time action must be taken, the Mayor may issue the declaration in accordance with this section. In all instances in this Ordinance, in the absence or incapacity of the Mayor, the Mayor Pro-tempore shall exercise the powers granted to the Mayor, including the declaration of emergency. If the declaration is made by anyone other than the Board of Commissioners, the declaration shall be subject to review and revision by the Board of Commissioners.

B. Such declaration shall be in writing and shall:

1. Describe the nature of the emergency;
2. Designate the geographical boundaries of the area where the emergency is deemed to exist, and that portion of the affected area lying within the Town limits;
3. Identify the type of Federal, State, County and Town assistance or resources required to respond to the emergency;
4. Estimate the length of time during which the designated area shall remain in an emergency state; and
5. State the specific regulations or emergency measures imposed as a result of the declaration of emergency.

C. Neither the Mayor nor the Mayor Pro-Tem shall have the authority to adopt any restriction on the lawful carrying or possession of firearms or other lawful weapons as part of a declaration of emergency. Such limitations may only be imposed as part of a declaration of emergency adopted by the

Board of Commissioners.

D. The Board of Commissioners, or other authorized individual specified in subsection A above, shall terminate the state of emergency by proclamation when the emergency no longer exists or when the threat of an emergency has passed.
(passed 9-13-2018)