

TITLE III: ADMINISTRATION

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CHAPTER 30: TOWN COUNCIL

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5. The term of office of all members of the Town Council shall be for four years. The Mayor of the Town Council shall be elected to serve for a term of four years. ('82 Code, Ch. 2, Art. I, § 1) (Ord. passed 1-10-79; Am. Ord. passed 2-1-82)

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§ 30.02 FILLING VACANCIES ON TOWN COUNCIL.

A vacancy that occurs in an elective office of the town shall be filled by appointment of the Town Council. If the term of the office expires immediately following the next regular town election, or if the next regular town election will be held within 90 days after the vacancy occurs, the person appointed to fill the vacancy shall serve the remainder of the unexpired term. Otherwise, a successor shall be elected at the next regularly scheduled town election that is held more than 90 days after the vacancy occurs, and the person appointed to fill the vacancy shall serve only until the elected successor takes office. The elected successor shall then serve the remainder of the unexpired term. If the number of vacancies on the Council is such that a quorum of the Council cannot be obtained, the Mayor shall appoint enough members to make up a quorum, and the Council shall then proceed to fill the remaining vacancies. If the number of vacancies on the Council is such that a quorum of the Council cannot be obtained and the office of Mayor is vacant, the Governor may fill the vacancies upon the request of any remaining member of the Council, or upon the petition of any five registered voters of the town. Vacancies in appointive offices shall be filled by the same authority that makes the initial appointment. This section shall not apply to vacancies in the town if the town has not held a town election, levied any taxes or engaged in any municipal functions for a period of five years or more.

Ordinances

- 30.40 Ordinances to be submitted in writing
- 30.41 Effective date
- 30.42 Notice of passage
- 30.43 Ordinances confined to one subject
- 30.44 Official copies of ordinances and resolutions

GENERAL PROVISIONS

§ 30.01 ELECTION OF MAYOR AND TOWN COUNCIL.

A Mayor and a Council of six Council members shall be elected by the qualified voters of the town under the provisions of G.S. Chapter 160A, Article

(G.S. § 160A-63)

MEETINGS**§ 30.15 REGULAR MEETINGS.**

The Town Council shall hold its regular meetings on the first Monday of each month at 7:00 p.m. in the town hall. The Town Council may reserve the right at any time to adopt a resolution to change its regular meeting and time. ('82 Code, Ch. 2, Art. II, § 19)

§ 30.16 SPECIAL MEETINGS.

(A) The Mayor, the Mayor Pro Tempore, or any two members of the Council may at any time call a special 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 person or left at his 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. In addition to the procedures set out in this division or the Charter, a person or persons calling a special meeting of the Town Council shall comply with the notice requirements of G.S. Chapter 143, Article 33C.

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

(C) During any regular meeting, or any duly called special meeting, the Council may call or schedule a special meeting, provided that the motion or resolution calling or scheduling any such special meeting shall specify the time, place and purpose or purposes of such meeting and shall be adopted during an open session. (G.S. § 160A-71(b)(1),(2),(3))

A majority of the actual membership of the 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)

§ 30.18 ADJOURNED MEETINGS.

If a quorum fails to attend, the meeting shall stand adjourned to a day agreed upon by the majority of the members present. Any regular or special meeting may be adjourned to a date prior to the next regular meeting date of the Council. ('82 Code, Ch. 2, Art. II, § 21)

§ 30.19 MEETINGS OPEN TO THE PUBLIC.

All sessions of the Council, whether regular or special, shall be open to the public except as otherwise provided by law. ('82 Code, Ch. 2, Art. II, § 22)

§ 30.20 CONDUCT AT COUNCIL MEETINGS.

(A) Any person at a Council meeting who, after being advised, persists in an obvious attempt to divert the meeting to a different purpose from that for which it was called, or who otherwise tries to disrupt the proceedings, becomes subject to the disciplinary procedures described in division (B) below.

(B) A person who willfully interrupts, disturbs or disrupts an official meeting and who, upon being directed to leave the meeting by the presiding officer, willfully refuses to leave the meeting is guilty of a misdemeanor. ('82 Code, Ch. 2, Art. II, § 23) Penalty, see § 10.99

§ 30.17 QUORUM.

§ 30.21 MINUTES.

A complete and accurate account of all proceedings of the Council shall be kept by the Town Clerk. Every resolution or order made or adopted by the Council, and every petition submitted to it, which is not set out in full in the minutes, shall be filed in an exhibit book and by proper reference shall be made a part of the minutes. The results of each vote shall be recorded in the minutes, and upon the request of any member of the Council, the ayes and noes upon any question shall be taken. The minutes of each meeting shall be read at subsequent meetings, and upon being approved by the Council, shall be signed by the Mayor and the Clerk/Finance Officer. The minutes shall be made public and shall constitute one of the archives of the town.

(G.S. § 160A-72) ('82 Code, Ch. 2, Art. II, § 24)
(Am. Ord. 00-7, passed 8-7-00)

Statutory reference:

Keeping of minutes, see G.S. § 160A-72

§ 30.22 MAYOR TO PRESIDE; VOTING IN CASE OF A TIE.

The Mayor, or the appointed Mayor Pro-tem, shall preside at all meetings of the Council and shall vote only in case of equal division therein.

('82 Code, Ch. 2, Art. II, § 25)

Statutory reference:

*Mayor to preside over Council, see
G.S. § 160A-69*

§ 30.23 (RESERVED).

§ 30.24 RULES OF PROCEDURE.

Except where otherwise provided for by law or ordinance, the procedure of the Council shall be governed by *Robert's Rules of Order*.

('82 Code, Ch. 2, Art. II, § 28)

§ 30.25 CONSIDERATION OF RESIGNATION OF MEMBERS.

Resignation of any member of the Town Council shall be in writing, and any such resignation shall lie on the table until the next regular meeting, unless considered by unanimous consent.

('82 Code, Ch. 2, Art. II, § 29)

ORDINANCES

§ 30.40 ORDINANCES TO BE SUBMITTED IN WRITING.

All ordinances are to be submitted in writing and approved as to form by the Town Attorney before the Council shall take any action on the same.

Ordinances shall be adopted, amended, repealed or otherwise dealt with as provided in the General Statutes of North Carolina, as amended from time to time.

('82 Code, Ch. 2, Art. II, § 31)

§ 30.41 EFFECTIVE DATE.

All ordinances passed by the Town Council shall be in force and effect from and after the ratification thereof, unless otherwise provided in the ordinance.

('82 Code, Ch. 2, Art. II, § 32)

§ 30.42 NOTICE OF PASSAGE.

It shall be the duty of the Town Clerk to give immediate notice of the passage of every ordinance by publication at least once in a newspaper with general circulation or by posting a copy of the same at three public places in the town.

('82 Code, Ch. 2, Art. II, § 33) (Am. Ord. 00-7, passed 8-7-00)

§ 30.43 ORDINANCES CONFINED TO ONE SUBJECT.

All ordinances shall be confined to one subject, excepting ordinances for appropriations, which shall be confined to the subject of appropriations, and the substance of each ordinance shall be clearly expressed in the title.

('82 Code, Ch. 2, Art. II, § 34)

§ 30.44 OFFICIAL COPIES OF ORDINANCES AND RESOLUTIONS.

A true copy of any ordinance or resolution which has been duly enacted by the Council, and has been signed by the Town Clerk and the official seal of the town attached thereto, shall be known and recognized as an official copy of such ordinance or resolution of the town.

('82 Code, Ch. 2, Art. II, § 35) (Am. Ord. 00-7, passed 8-7-00)

Section

- 31.01 Mayor
- 31.02 Mayor Pro Tempore
- 31.03 (Reserved)
- 31.04 Bond required; compensation
- 31.05 Clerk and Finance Officer
- 31.06 Bond required of Finance Officer and Tax Collector
- 31.07 Town Manager; nature of office
- 31.08 Duties of Town Manager
- 31.09 Definition of extraterritorial jurisdiction
- 31.10 Tax Collector
- 31.11 Town Attorney

CHAPTER 31: TOWN OFFICIALS

(4) Appoint such committees and outline their powers and duties as he deems necessary to properly care for the affairs of the town.

(5) Make such recommendations as he deems necessary or expedient to the Town Council.

(6) Have and use a facsimile signature stamp with the same effect as an actual signature. ('82 Code, Ch. 2, Art. I, § 4)

§ 31.02 MAYOR PRO TEMPORE.

At the organizational meeting, the Town Council shall elect from among its members a Mayor Pro Tempore to serve at the pleasure of the Council. A Councilmember serving as Mayor Pro Tempore shall be entitled to vote on all matters and shall be considered a Councilmember for all purposes, including the determination of whether a quorum is present. During the absence of the Mayor, the Council may confer upon the Mayor Pro Tempore any of the powers and duties of the Mayor. If the Mayor should become physically or mentally incapable of performing the duties of his office, the Council may by unanimous vote declare that he is incapacitated and confer any of his powers and duties upon the Mayor Pro Tempore. Upon the Mayor's declaration that he is no longer incapacitated, and with the concurrence of a majority of the Council, the Mayor shall resume the exercise of his powers and duties. In the event both the Mayor and the Mayor Pro Tempore are absent from a meeting, the Council may elect from its members a temporary chairperson to preside in such absence.

(G.S. § 160A-70) ('82 Code, Ch. 2, Art. I, § 5)

Statutory reference:

§ 31.01 MAYOR.

(A) The Mayor shall be the official head of the town's government. Consistent with the provisions of the Charter, he shall be vested with all of the rights, powers, duties and privileges conferred upon him by the General Statutes of North Carolina and by the ordinances of the town. ('82 Code, Ch. 2, Art. I, § 3)

(B) It shall be the duty of the Mayor to:

(1) Keep himself informed as to the business of the town.

(2) Preside over the meetings of the Town Council.

(3) Unless some other officer is authorized by the Council, sign written contracts, deeds, franchises, checks, drafts or warrants on behalf of the town.

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§ 31.03 (RESERVED).**§ 31.04 BOND REQUIRED; COMPENSATION.**

All officers and employees shall execute such bond with sureties as shall be required and approved by the Council, and shall receive such compensation as from time to time may be prescribed by the Council.

('82 Code, Ch. 2, Art. I, § 7) (Am. Ord. 04-04, passed 4-5-04)

§ 31.05 CLERK AND FINANCE OFFICER.

The duties of the Clerk and Finance Officer may be consolidated and, if so consolidated, the officer in charge thereof shall be known as the Town Clerk and Finance Officer.

('82 Code, Ch. 2, Art. I, § 8)

§ 31.06 BOND REQUIRED OF FINANCE OFFICER AND TAX COLLECTOR.

The Town Finance Officer and the Tax Collector, before entering upon the duties of office, shall give bond in amounts as provided from time to time by general statute with a corporate surety authorized to do business in the state, conditioned that he or they will faithfully execute the duties of the offices, and render a just and true account thereof to the Town Council when required by law or by the Council.

('82 Code, Ch. 2, Art. I, § 9)

§ 31.07 TOWN MANAGER; NATURE OF OFFICE.

(A) The nature and definition of the Town Manager, as well as the powers, duties and responsibilities of said office, are as defined by the North Carolina General Statutes and any other duties may be delegated by the Town Council, either by general resolution or by specific directives related to

one or more specific matters. The office of Town Manager may be terminated by appropriate resolution of the Council at any time, but provisions of any current Town Manager's contract regarding salary and other forms of compensation, if any, beneficial to the employee shall nevertheless be honored if the office should ever be terminated at any time other than upon an anniversary of a Manager's contract.

(B) The contract of any Town Manager may be summarily and unilaterally terminated by the town or the Manager without cause or fault upon written notice, provided that the terminating party shall give the other party written notice by certified mail, return receipt requested, or by personal delivery with receipt obtained or other adequate written evidence of delivery (such as witnesses), and provided that said notice shall be given (or mailed) not less than 60 days prior to the end of the current year of the agreement. If the town terminates the Town Manager without cause, the town shall render the Town Manager his remaining salary until the agreement's annual anniversary date, but in no case shall such severance compensation be less than 60 days plus the Town Manager's accumulated vacation.

(C) (1) A Town Manager's contract may be terminated at any time for cause relating either to the inadequate performance of the Town Manager's duties and responsibilities under § 31.08 and/or under law, or for personal conduct which reflects adversely upon the town. The Town Manager shall, in the event that it is alleged that he has committed any act, or failed to perform any act or thing required of him, which is suggested is grounds for dismissal for cause under this agreement, and if the Town Council so determines by appropriate resolution, be notified in writing of the charge and charges, and provided with a copy of the resolution of the Council making such allegation. The Town Manager shall thereafter be afforded an opportunity to appear before the Council at a time and place within a reasonable time following delivery of such notice (not less than 10 nor more than 30 days after the delivery of such notice to the Town Manager, unless agreed upon by both parties hereto), at which time the Council shall conduct a hearing into the charges. At the hearing the Council shall examine the

Town Manager with respect to determining the truth or probable truth of the allegations against him. The Town Manager may be represented in and at the hearing by legal counsel of his own choice, and shall have the right to present witnesses and other evidence and arguments as he shall deem appropriate. Following the hearing, the Council shall meet (though not necessarily at the same time and place) as it deems appropriate to consider its actions, which may be as follows:

(a) To take no further action;

(b) To issue a written warning to the Town Manager in such form as the Council shall deem appropriate to be delivered to the Town Manager in the same manner and form as a notice of the hearing;

(c) To dismiss the Town Manager at a day and date which shall be specified in the notice; or

(d) Such other reasonable action (such as salary reduction, suspension for a stated time, imposition of a period of probation, and the like) as the Council shall deem fair, necessary, reasonable and appropriate under the circumstances.

(2) Any of the above actions shall be in writing, and shall be delivered to the Town Manager in the same manner as a notice of hearing under this section may be delivered. All proceedings under this section in which dismissal for cause is considered or at issue shall be private and in executive session, unless the Town Manager and the town shall agree that the same, or any portion thereof, shall be open to the public, except that such meetings shall be subject to any legal requirements of the "North Carolina Open Meetings Law," especially with reference to the entry of decisions in the public minutes of the Town Council as required by said law or any other rule of the law of this state.

(D) Any notices contemplated or specified by this section to be given by one party to the other, except as otherwise specified, shall be given in writing and directed in postage pre-paid envelope or

other appropriate form addressed to the names and addresses shown on the Town Manager's contract, by certified mail, return receipt requested, and deposited in the United States mail within the continental United States. In the alternative, said written notices may be given in person and considered valid and binding under this section if an appropriate receipt is obtained (which the parties hereto agree to execute upon delivery without prejudice to the right to contest the contents thereof), or if the witness of a third party provided in writing attesting to said personal delivery. The addresses which shall be binding upon the parties hereto unless and until subsequent written notice of change of address is provided by the moving party to the other party shall be as set forth in the Town Manager's contract.

('82 Code, Ch. 2, Art. I, § 10) (Am. Ord. passed 4-6-93)

Cross-reference:

Authority to purchase apparatus, supplies, materials or equipment, see § 34.07

Disposing of personal property valued at less than \$5,000, see § 34.08

§ 31.08 DUTIES OF TOWN MANAGER.

(A) The Town Manager is the chief administrator of the town. The Manager shall be responsible to the Town Council for administering all municipal affairs placed in his charge by Council, and shall have the following powers and duties:

(1) He shall appoint and suspend or remove all town 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 Council may adopt. The appointment, suspension, or removal of a department head shall occur only after consultation with Town Council.

(2) He shall direct and supervise the administration of all departments, offices, and agencies of the city, subject to the general direction and control of the Council, except as otherwise provided by law.

(3) He shall attend all meetings of the Council and recommend any measures that he deems expedient.

(4) He shall see that all laws of the state, the town Charter, and the ordinances, resolutions, and regulations of the Council are faithfully executed within the town.

(5) He shall prepare and submit the annual budget and capital program to the Council.

(6) He shall annually submit to the Council and make available to the public a complete report on the finances and administrative activities of the town as of the end of the fiscal year.

(7) He shall make any other reports that the Council may require concerning the operations of town departments, offices, and agencies subject to his direction and control.

(8) He shall perform any other duties that may be required or authorized by the Council. (G.S. § 160A-148)

(B) However, the supervision of the Town Clerk shall be in accordance with all laws, rules and regulations applicable to that office. The Town Clerk shall and may, without specific direction to do so, carry out the statutory duties of that office upon his or her own initiative, subject to the general oversight of the Town Manager to ensure the proper and timely performance of the duties of that office, and to coordinate the activities of that office with the remainder of the town's activities and business.

(C) The Town Manager shall also serve as Budget Officer. As Budget Officer, the Town Manager shall develop the tentative budget each year as contemplated and prescribed in G.S. Chapter 159. In the performance of other powers and duties, the Manager may also utilize his time and talents, at the request of the appropriate officials of the town, or on his own initiative, to explore and develop opportunities for improvement of any municipal service or services, for capital investment, construction or improvement in the town, to

coordinate and render professional assistance to the Elizabethtown Airport and Economic Development Commission, Elizabethtown Housing Authority and to the Planning and Zoning Boards of the town.

(D) The Town Manager shall also have the right and authority, consistent with law and the policies of the Town Council, to initiate and conduct investigations into matters deemed appropriate and necessary to him concerning the operations of municipal government and/or its employees, contractual personnel and public contractors, and other matters touching upon or affecting, or reasonably anticipated to affect the well-being and operation of the town.

(E) The Town Manager is expected to and shall, upon his own initiative, develop and propose ordinances to the Town Council for their consideration on matters deemed by the Manager to be necessary or desirable in and for the town, although the Manager is encouraged to bring these matters to the attention of the Mayor or individual members of the Council prior to performing extensive work on such proposals. The Manager is authorized and entitled, as a matter of course, to utilize the professional counsel and services of the Town Attorney whenever the Manager shall deem appropriate and helpful to him in the conduct of his powers and duties as Town Manager.

(F) The Town Manager shall devote his entire time, attention and energies to the performance of his duties as Town Manager and shall not, during the term of this contract and any renewals thereof, be engaged in any other professional or business activity whether or not such activities are pursued for pecuniary advantage, except for essentially passive investments of assets in a form and manner as will not require any services on the part of the Town Manager in the business affairs or activities of the business or entity in which such investments are made.

(G) The Town Manager shall be expected and will maintain office hours in an office provided for this purpose in the town municipal building, currently situated at 805 West Broad Street, Elizabethtown, North Carolina, or at such place or places as the

Town Council may hereafter designate, during the regular hours of the Town Office, which currently are Monday through Friday of each week between the hours of 8:30 a.m. and 5:00 p.m. of each week, with one hour being allowed for lunch at the Town Manager's choosing. The Town Manager shall so regulate his lunch hour with other municipal employees so that the Town Office shall be staffed at all times between 8:30 a.m. and 5:00 p.m., Monday through Friday of each week of the year.

(H) The Town Manager shall also be required and expected to attend all regular and special meetings of the Council, as well as all meetings of special commissions, boards and committees of the Council. The Town Manager shall be entitled to compensatory time off from his regular workday schedule for all such meetings except the regular and special meetings of the full Council (or a quorum thereof) in accordance with policies providing for compensatory time off (if any) agreed upon with the Mayor and/or the Council from time to time, which shall be in the discretion of the Mayor to administer and regulate in the absence of further action of the Council subsequent to the commencement of this agreement.
(’82 Code, Ch. 2, Art. I, § 11) (Am. Ord. passed 4-6-93; Am. Ord. 00-7, passed 8-7-00; Am. Ord. 04-04, passed 4-5-04)

§ 31.09 DEFINITION OF EXTRATERRITORIAL JURISDICTION.

The boundaries of extraterritorial jurisdiction of the town, according to and as authorized by G.S. Chapter 160A, Article 19, extend to distances not exceeding one mile from the corporate limits of the town, as shown on a map entitled, “Official Extraterritorial Boundary Map of the Town of Elizabethtown, North Carolina,” such map being made an integral part of this section.
(’82 Code, Ch. 2, Art. I, § 12) (Ord. passed 11-5-90)

§ 31.10 TAX COLLECTOR.

The following describes the position of Tax Collector for the town.

(A) *Purpose of class:* Under general supervision, the Tax Collector performs responsible tax preparation, billing, and collection functions; performs related tax functions; performs related duties as required.

(B) *Primary tasks:* (Any one position may not include all of the tasks listed, nor do the examples necessarily include all of the tasks performed.)

- (1) Prepares and bills ad valorem taxes based upon county assessments.
- (2) Collects tax receipts, balances same, posts tax revenues on the town's computer.
- (3) Prepares various tax changes with regard to addresses, names, releases, and discoveries.
- (4) Performs delinquent tax collections.
- (5) Services requests from lawyers and mortgage companies.
- (6) Calculates taxes due the town from prior tax years, prorates taxes, calculates tax penalties and interests, calculates taxes for FHA, and various legal firms and lawyers.
- (7) Administers the tax release program; handles tax listings, abstracts, keeps tax maps up-to-date, and maintains general tax data in a current condition; services calls from taxpayers concerning tax questions, problems, or complaints.
- (8) Prepares list of delinquent taxpayers for advertising in local newspaper for tax lien purposes.
- (9) Segregates tax collections by fund.
- (10) Assists as required in the collection of utility revenues and handling utility applications for service.
- (11) Prepares and submits tax related reports as required.

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(12) Handles employee questions regarding health insurance, worker's compensation and assists with claims as needed.

(13) Assists Town Clerk with payroll as needed.

(14) Receives housing authority rent payments.

(15) Performs other duties as required.

(C) *Equipment operated:* Calculator, adding machine, computer, copy machine, fax machine, and other assigned office equipment.

(D) *Reporting relationship:* Incumbents in this class of positions report to the Finance Officer.

(E) *Working conditions:* Not adverse.

(F) *Qualifications of class:*

(1) *Education:* Graduation from an accredited high school and preferably completion of an associate degree program in accounting, bookkeeping, or related field; completion of general courses and seminars in tax and related revenue activities.

(2) *Experience:* Some experience in a tax administrative capacity; or an equivalent combination of training and experience.

(3) *Knowledge, skills and abilities:*

(a) Good knowledge of tax preparation and town collection policies and procedures, financial practices and requirements as related to the receipt, recording, funding, and depositing of tax and various other revenues of the town.

(b) Good knowledge of the state and local legal requirements of tax collection (including delinquent taxes) methods and procedures.

(c) Good knowledge of modern office practices, procedures and methods.

(d) Knowledge of town's health and worker's compensation insurance plans.

(e) Ability to handle large sums of money accurately and without loss and to maintain adequate records.

(f) Ability to make arithmetical calculations quickly and accurately.

(g) Ability to deal tactfully and courteously with the public.

(h) Ability to maintain effective working relationships with other employees and officials including attorneys and mortgage companies.

(4) *Special requirements:* Possession of an appropriate valid North Carolina driver's license. (Am. Ord. 00-7, passed 8-7-00)

§ 31.11 TOWN ATTORNEY.

The Council shall appoint a Town Attorney to serve at its pleasure and to be its legal adviser. (G.S. § 160A-173)

Police Department

- 32.01 Organization
- 32.02 Town Manager to have control
- 32.03 Uniforms provided
- 32.04 Police to report condition of streets and sidewalks
- 32.05 Intermunicipality police assistance agreements
- 32.06 Auxiliary police

§ 32.01 ORGANIZATION.

CHAPTER 32: POLICE AND FIRE DEPARTMENTS

The police organization of the town shall consist of a Chief and as many police officers as the Town Council shall from time to time determine and elect, and as many special police officers as the Town Council may deem necessary.
(’82 Code, Ch. 15, § 1)

Fire Department

- 32.20 Control of Fire Department by Chief
- 32.21 Duty of Chief to report to fire sites
- 32.22 Right of entry of firefighters
- 32.23 Investigation of fires
- 32.24 Record of fires
- 32.25 Inspections to be made quarterly and semi-annually
- 32.26 Inspections to be made upon complaint
- 32.27 Remedying hazards; issuance of orders by Chief
- 32.28 Failure of owner or occupant to fail to comply

§ 32.02 TOWN MANAGER TO HAVE CONTROL.

The Town Manager shall have general control of the Police Department, and may at any time for cause suspend from duty any member of the police force until the next regular meeting of the Town Council, at which time it shall make final disposition of the case.
(’82 Code, Ch. 15, § 2)

§ 32.03 UNIFORMS PROVIDED.

The Chief of Police and other police officers shall dress as prescribed by the Town Council, and shall keep themselves (including attire) in neat condition, and upon discharge, resignation or dismissal, surrender any possession that has been purchased by the town for their use.
(’82 Code, Ch. 15, § 3)

Cross-reference:

- Fire prevention, see Ch. 94*
- Interference with firefighters and fire equipment, see Ch. 130*
- Fire limits of the town, see Ch. 150*

§ 32.04 POLICE TO REPORT CONDITION OF STREETS AND SIDEWALKS.

It shall be the duty of the police officers to report to the Town Manager all sidewalks or street lights on their beats or which come under their observation that are in bad condition, stating the location of the sidewalk or street or street light, the names of the owners of property adjacent thereto, or their agents, and all officers shall report all nuisances to the Town Manager.

('82 Code, Ch. 15, § 4)

§ 32.05 INTERMUNICIPALITY POLICE ASSISTANCE AGREEMENTS.

The town does hereby authorize entry into agreement with the towns of Bladenboro and White Lake in Bladen County, North Carolina, or with so many of them as shall similarly agree with this town, pursuant to G.S. § 160A-288, to provide to and receive from said town or towns mutual police assistance as contemplated by said statute, and upon emergency conditions as declared in accordance with said statute. The Mayor and Town Clerk are hereby authorized, directed and empowered to execute an appropriate contract with this town for the providing of emergency police assistance as provided in G.S. § 160A-288, which executed contract shall be a prerequisite to the providing of such emergency police assistance by officers of this town to any other town, or to the request for or acceptance of such emergency police assistance by this town from any other town. The contract herein approved and authorized shall be effective upon execution as to each municipality executing it.

('82 Code, Ch. 15, § 5) (Am. Ord. 00-7, passed 8-7-00)

§ 32.06 AUXILIARY POLICE.

(A) All police officers of the auxiliary police force of the Town of Elizabethtown shall complete, within the required time interval, any in-service training or qualifications as may be required.

(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, volunteer police officers of the auxiliary police force of the Town of Elizabethtown shall be entitled to benefits under the North Carolina Worker's Compensation Act and to any fringe benefits for which such persons qualify.

(C) The operational rank of all volunteer police officers shall be "police officer" and he or she shall be subject to any and all lawful operational commands of the chain of command of the Elizabethtown Police Department.

(D) Volunteer police officers of the auxiliary police force of the town shall be issued or allowed to retain such uniforms and equipment as the Chief of Police may allow.

(E) Notwithstanding the language of G.S. § 160A-284, the public office of volunteer police officer of the auxiliary police force of the town may not be held concurrently with any elected office and may only be held concurrently with such public appointed offices or private employment as the Chief or Police may approve. Any volunteer police officer of the auxiliary police force of the town shall be deemed to have resigned from the auxiliary police force of the town upon taking the oath of office of any elected office or the acceptance of a public appointed office or private employment not approved by the Chief of Police.

(F) This section shall not be interpreted or deemed to have any force or effect upon any person who holds dual employment as a police officer and any other position within the town as of May 3, 2004. (Ord. 04-06, passed 5-4-04)

FIRE DEPARTMENT

§ 32.20 CONTROL OF FIRE DEPARTMENT BY CHIEF.

Subject to the supervision of the Town Manager and his appointed board, the Chief of the Fire Department shall have general control of the Fire Department, the personnel, apparatus and fire alarm system.
(‘82 Code, Ch. 7, § 1)

§ 32.21 DUTY OF CHIEF TO REPORT TO FIRE SITES.

Whenever a fire shall occur in the town, it shall be the duty of the Chief to report immediately to the place of fire and take active charge of the fighting thereof.
(‘82 Code, Ch. 7, § 2)

§ 32.22 RIGHT OF ENTRY OF FIREFIGHTERS.

Any member of the Fire Department, or any person acting under the orders of the Chief shall have the right to go upon the premises of any person, and to enter any building or room and insert the hose and turn on the water or do other acts required in the performance of their duties, whenever in the judgement of the Chief it shall be necessary.
(‘82 Code, Ch. 7, § 3)

§ 32.23 INVESTIGATION OF FIRES.

Immediately after the occurrence of any fire, the Chief shall investigate or shall cause to be investigated the cause, origin and circumstances thereof, and as far as possible, shall determine whether such fire was the result of accident, carelessness or design. If he has reason to believe that such fire was of suspicious origin, he shall notify the proper authorities designated

by law to pursue the investigation of such matter, and shall further cooperate with the authorities in collecting of evidence and in the prosecution of the case when properly instituted.
(‘82 Code, Ch. 7, § 4)

§ 32.24 RECORD OF FIRES.

The Chief shall keep, or shall cause to be kept, an accurate record of all fires occurring in the town. For each such fire, the following information shall be secured and kept:

(A) Location of premises;

(B) Owner;

(C) Brief description of premises whether of brick, stone, concrete, iron or wood;

(D) How occupied, whether as dwelling, storehouse, factory, workshop or otherwise;

(E) Amount and nature of damages as to both real and personal property;

(F) Amount of insurance;

(G) Cause of fire; and

(H) Date.

('82 Code, Ch. 7, § 5)

§ 32.25 INSPECTIONS TO BE MADE QUARTERLY AND SEMI-ANNUALLY.

It shall be the duty of the Chief to inspect or cause to be inspected, as often as may be necessary, but not less than four times a year, all specially hazardous manufacturing processes; the storage or installations of acetylene or other gases, chemicals, oils, explosives and inflammable materials; all interior fire alarms and automatic sprinkler systems; and such other hazards or appliances as may be necessary for the enforcement of the law and ordinance governing the same and for the safeguarding of life and property from fire. It shall also be the duty of the Chief to inspect or cause to be inspected as often as may be necessary, but not less than twice a year in outlying districts and four times a year in closely built portions of the town, all buildings and premises except the interiors of private dwellings for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violation of the provisions or intent of any applicable code provision or ordinance of the town affecting fire hazards.

('82 Code, Ch. 7, § 6)

§ 32.26 INSPECTIONS TO BE MADE UPON COMPLAINT.

Whenever any person shall make written complaint to the Chief that any business or premises constitutes a fire hazard, it shall be the duty of the Chief to have the same inspected immediately.

('82 Code, Ch. 7, § 7)

§ 32.27 REMEDYING HAZARDS; ISSUANCE OF ORDERS BY CHIEF.

Whenever the Chief shall find that any building or any premises constitutes a fire hazard, for any reason, he shall serve or cause to be served upon the owner and occupant of such building a written notice specifying the condition complained of, ordering the same remedied promptly and indicating what is considered a reasonable time for compliance with such order.

('82 Code, Ch. 7, § 8)

§ 32.28 FAILURE OF OWNER OR OCCUPANT TO FAIL TO COMPLY.

It shall be unlawful for any occupant or owner of such building or premises to fail to comply within ten days after the service of any such order with the requirements thereof. If compliance within ten days is not possible, the owner will request and obtain an extension of time as the Chief may deem appropriate.

('82 Code, Ch. 7, § 9) Penalty, see § 10.99

Section

ABC Board

CHAPTER 33: DEPARTMENTS, BOARDS AND COMMISSIONS

- 33.01 ABC Board established
- 33.02 Membership; terms
- 33.03 Compensation
- 33.04 Authority to conduct business

Recreation Commission

- 33.20 Recreation Commission created
- 33.21 Membership
- 33.22 Organization
- 33.23 Function
- 33.24 Removal of members
- 33.25 Accepting gifts and the like; incurring obligations
- 33.26 Budget appropriations/fiscal control
- 33.27 Reports; fiscal year

Cross-reference:

Planning and Zoning Commission, see §§ 153.01 through 153.17
Redevelopment Commission, see § 153.25

ABC BOARD

§ 33.01 ABC BOARD ESTABLISHED.

A local ABC Board for the town is hereby established pursuant to G.S. § 18B-700. ('82 Code, Ch. 2, Art. III, § 51) (Ord. passed 10-13-81)

§ 33.02 MEMBERSHIP; TERMS.

(A) The Board shall consist of three members. ('82 Code, Ch. 2, Art. III, § 52)

(B) The initial membership of the Board shall serve terms of three years, two years and one year; thereafter when new appointments are made, each person shall serve a term of three years, except persons who may be appointed to fill any vacancy on the Board occasioned by death, disability, resignation or otherwise as by law provided. ('82 Code, Ch. 2, Art. III, § 53) (Ord. passed 10-13-81)

§ 33.03 COMPENSATION.

Each local Board member shall be compensated as set forth by ordinance of the Town Council.

§ 33.04 AUTHORITY TO CONDUCT BUSINESS.

(A) The Board is authorized to commence business as soon as possible after being properly licensed, bonded and otherwise qualified by law.

(B) After its members have been appointed and qualified to serve thereon as by law provided, the Town ABC Board shall have and may exercise any and all of the rights, powers and duties as authorized in G.S. 18B-701 et seq. ('82 Code, Ch. 2, Art. III, § 55) (Ord. passed 10-13-81)

RECREATION COMMISSION

§ 33.20 RECREATION COMMISSION CREATED.

There is hereby created a Commission to be known as the Elizabethtown Recreation Commission. ('82 Code, Ch. 13, Art. II, § 20) (Ord. passed 2-3-71; Am. Ord. 95-10, passed 12-4-95)

§ 33.21 MEMBERSHIP.

(A) The Recreation Commission shall be composed of five members to be appointed by the Town Council. The Town Attorney shall act as an "ex-officio" member and be present on an as needed basis.

(B) The initial membership of the Commission shall be as follows: Three members serving two years and two members serving a term of four years. Thereafter, when new appointments are made, members shall serve for a term of four years and until their successors are appointed and qualified.

(C) Vacancies in the Recreation Commission shall be filled for the unexpired term by the Town Council. The members of the Recreation Commission shall serve without compensation.

(D) Membership of the Recreation Commission shall consist of citizens residing in the town limits or within the extraterritorial jurisdiction of the town. ('82 Code, Ch. 13, Art. II, § 21) (Ord. passed 2-3-71; Am. Ord. 95-10, passed 12-4-95)

§ 33.22 ORGANIZATION.

The Recreation Commission shall appoint from its membership a Chairperson and such other officers as it may deem necessary for the orderly procedure of its business and may adopt bylaws, rules and regulations covering its procedure not inconsistent with the provisions of the state laws. The Recreation Commission shall, from time to time, make rules and regulations governing the operation and conduct of the recreational facilities operated by the Recreation Commission. The Recreation Commission shall hold quarterly meetings at such times and places as it may designate. ('82 Code, Ch. 13, Art. II, § 22) (Ord. passed 2-3-71; Am. Ord. 95-10, passed 12-4-95)

§ 33.23 FUNCTION.

The Recreation Commission shall provide, maintain, operate and supervise the public parks and playgrounds, athletic fields and recreation centers and other recreational facilities owned or controlled by the town or leased or loaned to the Recreation Commission by the owners thereof. The Recreation Commission shall function as an advisory commission charged with overseeing and making recommendations to the Town Council concerning the parks, playgrounds, athletic fields and recreation centers controlled by the town. ('82 Code, Ch. 13, Art. II, § 23) (Ord. passed 2-3-71; Am. Ord. 95019, passed 12-4-95)

§ 33.24 REMOVAL OF MEMBERS.

(A) Members may be removed from the Recreation Commission by the Mayor for inefficiency, neglect of duty or malfeasance in office. All members serve at the pleasure of the Mayor.

(B) The membership of any member who is absent from four consecutive meetings, or whose percentage of attendance over any period of twelve consecutive months is less than 60% shall automatically be terminated, unless such absence is excused by the full Recreation Commission for good sufficient cause. ('82 Code, Ch. 13, Art. II, § 24) (Ord. passed 2-3-71; Am. Ord. 95-10, passed 12-4-95)

§ 33.25 ACCEPTING GIFTS AND THE LIKE; INCURRING OBLIGATIONS.

The Recreation Commission may recommend the acceptance of any grant, gift, bequest or donation of any personal property offered or made for recreational purposes and, with the approval of the Town Council, may accept any grant, gift or devise of real estate. All gifts of real property shall be placed in the name of the

Town of Elizabethtown. The Recreation Commission shall have no authority to enter into any contract or incur any obligation binding upon the town other than current obligations or contracts to be fully executed within the current fiscal year and all within the budget appropriations made by the Town Council.

('82 Code, Ch. 13, Art. II, § 26) (Ord. passed 2-3-71; Am. Ord. 95-10, passed 12-4-95)

§ 33.26 BUDGET APPROPRIATIONS/FISCAL CONTROL.

Funds appropriated by the governing body of the town and budgeted to the Recreation Commission shall be disbursed by the fiscal disbursing officer of the town upon vouchers issued by the Recreation Commission and within the budget appropriations made. Funds received by the Recreation Commission from sources other than budget appropriations shall be deposited by the town to the credit and for the use of the Commission and disbursed as budget funds are disbursed, except that funds received by gift, bequest or otherwise shall be disbursed in accordance with the terms of the gift or bequest.

('82 Code, Ch. 13, Art. II, § 27) (Ord. passed 2-3-71; Am. Ord. 95-10, passed 12-4-95)

§ 33.27 REPORTS; FISCAL YEAR.

The Recreation Commission shall make full and complete reports to the Town Council at such times as may be requested, and at such other times as to the Councilmembers may seem proper. The fiscal year of the Commission shall conform to that of the town.

('82 Code, Ch. 13, Art. II, § 28) (Ord. passed 2-3-71; Am. Ord. 95-10, passed 12-4-95)

Cross-reference:

For provisions concerning parks and recreation, see Ch. 99

Section

§ 34.03 TREASURER TO DEPOSIT FUNDS.

- 34.01 Official depositories named
- 34.02 Agreements and collaterals
- 34.03 Treasurer to deposit
- 34.04 Disbursal of funds; countersigning checks or vouchers
- 34.05 Contracts; execution requirements
- 34.06 Officer designated to file sworn statement in case of bond ordinance introduction
- 34.07 Purchasing apparatus, supplies, materials or equipment
- 34.08 Disposing of personal property valued at less than \$5,000

The Treasurer is authorized and directed to deposit daily in the designated depositories, in the hands as treasurer of the municipality, all funds coming into his hands as treasurer of the municipality.
(’82 Code, Ch. 6, § 3)

§ 34.04 DISBURSAL OF FUNDS; COUNTERSIGNING CHECKS OR VOUCHERS.

All checks and/or vouchers drawn by and in the name of the municipality by its Treasurer shall be countersigned by the Mayor, and no funds shall be withdrawn from the depositories by check and/or voucher unless countersigned by the Mayor.
(’82 Code, Ch. 6, § 4)

§ 34.01 OFFICIAL DEPOSITORIES NAMED.

The Wachovia Bank and Trust Company, N.A.; the Bank of North Carolina, N.A.; the Waccamaw Bank and Trust Company; and the Cooperative Savings and Loan Association and such other depositories as may be designated from time to time are designated as official depositories for the municipality. The Town Council shall from time to time designate the accounts to be deposited in the respective depositories.
(’82 Code, Ch. 6, § 1)

§ 34.05 CONTRACTS; EXECUTION REQUIREMENTS.

All contracts made by any department, board or commission in which the amount involved is \$200 or more shall be in writing, and no such contract shall be deemed to have been made or executed until signed by the officer authorized by law to sign such contract and approved by the Town Council. Any contract made as aforesaid may be required to be accompanied by a bond with sureties or by a deposit of money, certified check or other security for the faithful performance thereof satisfactory to the Council or official having the matter in charge, and such bonds or other securities shall be deposited with the Treasurer until the contract has been carried out in all respects. No such contract shall be altered except by a written agreement of the contractor, the sureties on his bond and the officer, department or board making the contract, with the approval of the Town Council.
(’82 Code, Ch. 6, § 5)

§ 34.02 AGREEMENTS AND COLLATERALS.

Written agreements with the official depositories, if any, copies of which are incorporated in the minutes, are hereby approved and the collaterals provided by the depositories securing deposits made by and in the name of the municipality are hereby approved, and lists of said collaterals fully and completely identifying the same area of record in the minutes of the municipality.
(’82 Code, Ch. 6, § 2)

§ 34.06 OFFICER DESIGNATED TO FILE SWORN STATEMENT IN CASE OF BOND ORDINANCE INTRODUCTION.

The Finance Officer is designated as the officer to prepare and file sworn statements of indebtedness, required after the introduction and prior to the adoption of bond ordinances, and also to determine the amount to be inserted in any such statement as the estimated amount of any special assessments thereafter to be levied on account of local improvements, for which any part of the gross debt set forth in such statement was or is to be incurred, and which, when collected, will be applied to the payment of such gross debt.

('82 Code, Ch. 6, § 6) (Am. Ord. 00-7, passed 8-7-00)

§ 34.07 PURCHASING APPARATUS, SUPPLIES, MATERIALS OR EQUIPMENT.

(A) *Grant of Authority.* Subject to the restrictions and conditions hereinafter provided, when purchasing apparatus, supplies, materials or equipment for use by the town, in addition to such authority as may be provided by law and/or otherwise delegated by the Town Council, the Town Manager shall have the authority to:

(1) Prepare, or cause to be prepared, plans and/or specifications setting forth a complete description of the item to be purchased and the characteristics, features and/or requirements therefor;

(2) Include, where appropriate, in specifications for the item to be purchased, an opportunity for bidders to purchase as trade-in specified personal property owned by the town;

(3) Advertise, or otherwise secure bids, for such item, if required under applicable law;

(4) Award contracts for the purchase of the item and, where applicable, award contracts for the purchase of the item and the sale or trade-in property;

(5) Reject bids;

(6) Readvertise to receive bids;

(7) Waive bid bond or deposit requirements;

(8) Waive performance and payment bond requirements; and

(9) Execute and deliver the purchase contract.

(B) *Report.* At the first meeting of the Town Council following the award of any contract pursuant to this section, the Town Manager shall submit a report to the Town Council summarizing the bids received and the contract awarded. Such report shall be included in the minutes of the meeting at which it is received.

(C) *Extent of Authority.* Except in cases of purchases from established contracts pursuant to G.S. § 143-129(g), unless otherwise provided by law, the provisions of this section shall apply to the purchase of apparatus, supplies, materials or equipment not to exceed \$75,000 for any one item or group of similar items.

(D) *No Limitation of Other Authority.* The provisions of this chapter are not intended to limit, restrict or revoke, in any manner, authority otherwise granted and/or delegated to the Town Manager by statute, law or action of the Town Council.

(E) *Appropriation Required.* No purchase shall be made by the Town Manager under authority of this section unless an appropriation for such purpose has been authorized in the annual budget, or by supplemental appropriation or budget appropriation amendment duly adopted by the Town Council.

(F) *Application of General Statutes.* In acting pursuant to the authority delegated by this section, the Town Manager shall comply with the requirements of G.S. Ch. 143, Art. 8, as from time to time amended, modified, supplemented, revised, or superseded, to the same extent as would have otherwise applied to the Town Council.

(Ord. 98-1, passed 2-2-98)

**§ 34.08 DISPOSING OF PERSONAL
PROPERTY VALUED AT LESS THAN \$5,000.**

(A) The Town Manager is authorized 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 \$5,000;

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

(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 such surplus personal property by any means which he or she judges reasonable 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. Such sale may be public or private, and with or without notice and minimum waiting period.

(C) The surplus property shall be sold to the party who tenders the highest offer, or exchanged for any property or services useful to the town if greater value may be obtained in that manner, and the Town Manager is 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 Town Council.

(D) The Town Manager shall keep a record of all property sold under authority of this section and that record 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. (Ord. 98-2, passed 2-2-98)

