

**TITLE III: ADMINISTRATION**

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## CHAPTER 30: BOARD OF ALDERMEN

Section

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### **GENERAL PROVISIONS**

#### **' 30.01 VESTING AND EXERCISE OF CORPORATE POWERS.**

(A) The corporate powers of the town shall be vested in and exercised by a Mayor, and Board of Aldermen, as provided in this chapter, and the officers and agents as are provided for in this chapter, subject to the limitations as may be imposed by this chapter, and the executive and administrative powers, authority and duties are distributed as set forth in this chapter. The government of the town and general management and control of all its affairs shall be vested in the Board.

(B) G.S. Chapter 160A entitled Cities and Towns, and amendments thereto, shall be deemed a part of the charter of the town, and shall apply to this town, except where the same is inconsistent with the charter or inapplicable to this town.

(1989 Code, ' 2-26)

**' 30.02 COMPOSITION, ELECTION AND TERM.**

The Board of Aldermen shall consist of 5 members, who shall be elected from the town at large, in the manner provided in this chapter, for a term of 2 years and until their successors are elected and qualified.

(1989 Code, ' 2-27)

**' 30.03 DATE OF INDUCTION INTO OFFICE.**

All members of the Board of Aldermen shall be sworn in at the December meeting after the election in November and shall take office immediately upon taking the oath.

(1989 Code, ' 2-28)

***Statutory reference:***

*Municipal election procedure, see G.S. ' ' 163-279 et seq.*

**' 30.04 REGULAR AND SPECIAL MEETINGS.**

(A) The Board shall fix suitable times for its regular meetings which shall be at least once monthly.

(B) (1) The Mayor, the Mayor Pro Tem, or any 2 members of the Board may at any time call a special meeting, by executing a written notice stating the time and place of holding the meeting, stating the subjects to be considered, and signed by the person calling the same, to be delivered in hand to each member or left at his or her usual dwelling place at least 6 hours before the time of the meeting.

(2) 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.

(3) In addition to the procedures set out in this section or the town charter, a person calling a special meeting of the Board of Aldermen shall comply with the notice requirements of G.S. Chapter 143, Article 33C.

(4) Special meetings 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.

(C) (1) A majority of the actual membership of the Board plus the Mayor, excluding vacant seats, shall constitute a quorum.

(2) 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-71) (1989 Code, ' 2-29)

***Statutory reference:***

*Council interchangeable with Board of Aldermen, see G.S. ' 160A-1*

*Quorum, see G.S. ' 160A-74*

**' 30.05 COMPENSATION.**

The Board of Aldermen may fix its own compensation in sums as may be just and reasonable. Any increase in the compensation of the Board of Aldermen shall not take effect until after the next succeeding regular municipal election.

(1989 Code, ' 2-30)

**' 30.06 RESIGNATION OF MEMBERS.**

No member of the Board of Aldermen shall be allowed to tender a resignation of his or her office, except in writing.

(1989 Code, ' 2-31)

**' 30.07 VACANCIES.**

Vacancies in the Board shall be filled by appointment of the Board as provided in G.S. ' 160A-63. (1989 Code, ' 2-32)

***POWERS AND DUTIES***

**' 30.20 LEGISLATIVE POWERS, IMPROVEMENT, FINANCIAL POWERS, ASSESSMENTS.**

The Board of Aldermen has and shall exercise all legislative powers, functions and duties conferred upon the town or its officers. It shall make all orders for the doing of work, or the making or construction of any improvements, bridges or buildings. It shall levy all taxes, apportion and appropriate

all funds, audit and allow all bills and accounts, payrolls, and claims and order payment thereof. It shall make all assessments for the cost of street improvements, sidewalks, sewers and other work, improvements or repairs which may be specifically assessed.

(1989 Code, ' 2-46)

### **' 30.21 CONTRACTS.**

The Board of Aldermen shall make or authorize the making of contracts, and no contract shall bind or be obligatory upon the town unless the same is either made by ordinance or resolution adopted by the Board, or is reduced to writing and approved by the Board, or expressly authorized by ordinance or resolution adopted by the Board.

(1989 Code, ' 2-47)

### **' 30.22 DEPARTMENT HEADS, AGENTS AND EMPLOYEES.**

All heads of departments, agents and employees are the agents of the Board only, and all their acts shall be subject to review, and to approval and revocation by the Board. Every head of a department, superintendent, agent, employee or officer shall, from time to time, as required by law or ordinance, or when requested by the Board or whenever he or she shall deem necessary for the good of the public service, report to the Board in writing, respecting the business of his or her department or office or employment, all matters connected therewith. The Board may, by ordinance or resolution, assign to a head of a department, a superintendent, officer, agent, or employee, duties in respect to the business of any other department, office or employment, and the services shall be rendered without additional compensation.

(1989 Code, ' 2-48)

### **' 30.23 AUDIT.**

The Board shall cause to be audited the books and accounts of all departments and of officers and employees who do or may receive or disburse money.

(1989 Code, ' 2-49)

### **' 30.24 OCCUPATIONAL LICENSES AND TAXES.**

The Board shall have full powers to license, tax and regulate trades, occupations and professions.

(1989 Code, ' 2-50)

**' 30.25 CONDEMNATION OF LAND.**

(A) The Board shall have full powers to condemn any land that may be required for the purpose of erecting any building or buildings, for city hall, market houses, firehouses, graded and other public schools, parks, playgrounds, and for any other public purpose, whether like those enumerated above or not. The procedure in condemnation proceedings shall be the same as is provided in this section for the condemnation of lands for streets.

(B) The Board shall have full powers to pass ordinances or resolutions for the condemnation of property for the purpose of widening, altering, changing or extending any of the streets of the town and for opening new streets, and for the construction and maintenance of drains, sewers, and combination drains and sewers and for any other public purpose provided for in this act.  
(1989 Code, ' 2-51)

**' 30.26 PASSAGE OF ORDINANCES.**

(A) Every ordinance shall be in force and shall become law from the adoption by the Board of Aldermen unless otherwise ordered.

(B) Three readings on separate and different dates shall not be required.

(C) A true copy of each ordinance passed by the Board of Aldermen shall be filed and indexed in an ordinance book separate and apart from the Board's minute book until the ordinance shall have been codified.

(1989 Code, ' 2-52)

***Statutory reference:***

*Filing of ordinances, see G.S. ' 160A-78*

*Passage of ordinances, see G.S. ' 160A-75*

**' 30.27 GIVING OF NOTICE.**

The giving of any notice required by any provision of this code or other ordinance of the town shall be done in conformity with any applicable state law.

(1989 Code, ' 2-53)





## CHAPTER 31: OFFICERS AND EMPLOYEES

### Section

#### *General Provisions*

- 31.01 Election of officers
- 31.02 Term and removal
- 31.03 Compensation
- 31.04 Social security benefits
- 31.05 Holidays
- 31.06 Vacation leave
- 31.07 Sick leave and parental leave
- 31.08 Worker=s compensation
- 31.09 Civil leave
- 31.10 Military leave
- 31.11 Rest periods
- 31.12 Leave without pay
- 31.13 Supplemental Retirement Income Plan of North Carolina

#### *Mayor*

- 31.25 Chief executive of town
- 31.26 Participation on committees
- 31.27 Duties
- 31.28 Vote on Board
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#### *Clerk*

- 31.40 Duties

#### *Treasurer*

- 31.55 Duties

#### ***Cross-reference:***

- Building Inspector, see ' ' 150.035 et seq.*
- Civil emergencies, see Ch. 35*
- Planning Board, see ' ' 32.01 et seq.*
- Police Chief, see ' ' 33.25 et seq.*

**GENERAL PROVISIONS****' 31.01 ELECTION OF OFFICERS.**

The Board of Aldermen at its first meeting or as soon thereafter as possible shall elect for the ensuing year a Mayor Pro Tem, Town Clerk, Town Treasurer and Town Attorney. The Board may elect police and other officials as the Board may deem to be necessary and expedient.

(1989 Code, ' 2-71)

**Statutory reference:**

*Election of Mayor Pro Tempore, see G.S. ' 160A-70*

**' 31.02 TERM AND REMOVAL.**

All officers appointed by the Board of Aldermen shall hold their offices at the pleasure of the Board of Aldermen and may be removed at any time by the Board.

(1989 Code, ' 2-72)

**' 31.03 COMPENSATION.**

The Board of Aldermen shall, at the time of their election, fix the compensation and bonds of all officers and employees, prescribe their duties and cause the oaths to be administered as the Board may deem necessary.

(1989 Code, ' 2-73)

**' 31.04 SOCIAL SECURITY BENEFITS.**

Employees of the town shall be placed under the social security program according to G.S. ' ' 135-19 to 135-27.

(1989 Code, ' 2-74)

**' 31.05 HOLIDAYS.**

(A) The town shall observe the following as official holidays:

- (1) New Year's Day;
- (2) Easter Friday;
- (3) Independence Day;

- (4) Labor Day;
- (5) Christmas (2 days);
- (6) Thanksgiving (2 days);
- (7) Martin Luther King Day; and
- (8) Memorial Day.

(B) When a holiday, other than Christmas, falls on Saturday or Sunday, the following Monday shall be observed.

(C) If an employee is engaged in shift work and if the regular work schedule requires one to work on a holiday, the employee shall receive a subsequent day off as compensation for the holiday worked; likewise, if a holiday falls on one's scheduled day off, the employee shall receive an additional day off.

(D) Holiday pay is equal to what the employee is paid for a regular workday, except that a holiday equals 12 hours for employees assigned to duty on 24-hour shifts.  
(1989 Code, ' 2-75)

**' 31.06 VACATION LEAVE.**

(A) A full-time employee shall earn paid vacation according to the employee's length of service as follows:

<i>Length of Service</i>	<i>Vacation Leave Equivalent</i>
1 through 5 years	4 hours per pay period
5 through 10 years	6 hours per pay period
10 years and longer	8 hours per pay period

(B) For pay purposes, a vacation day is equal to a regular workday.

(C) A new employee will work and accrue vacation for 12 months before he or she is eligible to take paid vacation.

(D) An employee may not work for the town at the same time that he or she is on paid vacation. In case of an emergency he or she can be called back. An employee is not authorized to use vacation that is accrued by another employee.

(E) Vacation time may be taken as earned by a permanent employee when mutually convenient for the town and the employee; therefore, vacation requests and scheduling are subject to approval by the department head.

(1989 Code, ' 2-76)

**' 31.07 SICK LEAVE AND PARENTAL LEAVE.**

(A) Sick leave with pay is acquired to the credit of each probationary and permanent employee at the rate specified above in ' 31.06. An employee is placed on leave without pay when the number of sick leave days taken exceeds the number of sick leave days available.

(B) Sick leave is a benefit granted to the employee in the event of sickness, injury, disability caused by pregnancy or childbirth, serious illness in the immediate family or in the event of death in the immediate family. Immediate family includes spouse, child, parent, brother, sister, grandparent and grandchild of the employee or the spouse.

(C) Any combination of sick leave, vacation and leave without pay, may be used to cover absence required for childbirth. The town will reinstate the employee without loss of seniority or benefits if she returns to work within 6 months after pregnancy is terminated.

(D) When personal illness extends beyond accrued sick leave, a charge will be made against vacation time and then leave without pay.

(E) Sick leave is not to be abused and will be granted with pay only when the employee:

(1) Calls his or her supervisor to give the amount of advance notice that the supervisor requires;

(2) Tells his or her supervisor the nature and expected duration of the illness; and

(3) Keeps his or her supervisor informed, daily if necessary, of the status of the illness.

(F) If the employee fails to notify the department head of the illness and fails to tell the department head when a return to work might be expected, the employee will be placed on leave without pay until the absence is explained. The department head has the authority to require proof of illness in whatever form that will meet his or her approval.

(G) An employee may not work at the same time that he or she is on paid sick leave, nor may 1 employee give any of his or her accrued sick leave to another, without approval of the Mayor.

(H) If sick leave is not used, it shall not accrue to the employee's account. No employee shall be paid for unused sick leave.

(I) An employee who is eligible for retirement who remains absent from work for more than 60 consecutive workdays because of sickness or injury shall file application for disability, early, or service retirement, or show evidence to the satisfaction of the department head that his or her disability is not permanent.

(J) To claim paid sick leave under false pretenses is considered a flagrant abuse of a valuable benefit and a serious violation of town policy that will be grounds for dismissal.  
(1989 Code, ' 2-77)

**' 31.08 WORKER'S COMPENSATION.**

(A) Town employees are protected by the North Carolina Worker's Compensation Act in the event of a job related injury or illness. Payments are made for medical expenses and partial payment is made for salary for the time lost from the job in accordance with provisions of the act.

(B) No charge is made against sick leave or vacation unless the disability continues beyond 6 months. After that time, charges may be made against sick leave, vacation, and then leave without pay.

(C) To protect his or her interest under the law, the employee has responsibility for promptly reporting all injuries resulting from on-the-job accidents in accordance with the act. The reports shall be made on a form required by and acceptable to the North Carolina Industrial Commission. The department head shall provide all necessary assistance in completing appropriate accident reports.  
(1989 Code, ' 2-78)

**' 31.09 CIVIL LEAVE.**

An employee called for jury duty, or as a court witness for the federal or state government or a subdivision thereof by subpoena, shall be entitled to leave with pay for the duty in addition to keeping fees received for the duty.  
(1989 Code, ' 2-79)

**' 31.10 MILITARY LEAVE.**

An employee who is a member of an Armed Forces Reserve Organization or the National Guard shall be granted 2 calendar weeks of leave with pay per calendar year for required military training. While on military leave, benefits will accrue as though present for duty. The leave is not charged as annual leave; however, any salary payment which the employee receives from the military shall be deducted from the sum paid by the town.  
(1989 Code, ' 2-80)

**' 31.11 REST PERIODS.**

The town makes no attempt to define or regulate a policy for rest periods or coffee breaks that can be uniformly applied for employees in all departments and divisions. Because there are numerous variations in working schedules and conditions, a department head or supervisor may establish an appropriate rest period policy that will best serve the town's interest. It is recognized that there may be circumstances which make designated rest periods or coffee breaks impossible; and therefore, the department head will address the questions accordingly.

(1989 Code, ' 2-81)

**' 31.12 LEAVE WITHOUT PAY.**

(A) To maintain interest in retirement and to continue life and health insurance coverage, the town provides authorized leave without pay for appropriate special reasons. However, leave without pay is available only if it is firmly established that the employee intends to return to the position from which he or she has taken leave.

(B) Leave without pay may include employees on:

- (1) Military leave in excess of 2 weeks;
- (2) Parental leave after all paid leave has been exhausted;
- (3) Leave for sickness after all paid leave has been exhausted;
- (4) Suspensions;
- (5) Educational leave; and
- (6) Other approved temporary absences.

(C) Authorized leave without pay may be extended for 3 month intervals for up to a year, subject to the approval of the Mayor. In absence of an extension of leave without pay, the employee's services will be terminated.

(D) If on leave without pay for more than 15 days in a month, an employee will not accrue vacation leave for that month.

(1989 Code, ' 2-82)

**' 31.13 SUPPLEMENTAL RETIREMENT INCOME PLAN OF NORTH CAROLINA.**

(A) (1) The Town of Rockwell hereby elects to participate in the Supplemental Retirement Income Plan of North Carolina for general employees.

(2) The Town of Rockwell hereby agrees to comply with all the provisions of the plan and the operation procedures of the administrator of the plan.

(B) The Town of Rockwell is hereby ordered and directed to make application to the Board of Trustees of the Supplemental Retirement Income Plan of North Carolina for the enrollment of this unit and its employees in the plan.

(Res. passed 2-12-2001; Am. Res. passed 7-9-2001)

***MAYOR***

**' 31.25 CHIEF EXECUTIVE OF TOWN.**

The Mayor shall be chief executive of the town and shall have general supervision over all employees and departments of the town.

(1989 Code, ' 2-101)

**' 31.26 PARTICIPATION ON COMMITTEES.**

The Mayor shall be ex officio member of all committees of the town.

(1989 Code, ' 2-102)

**' 31.27 DUTIES.**

The Mayor shall:

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

(B) Preside over the meetings of the Board of Aldermen when present; if absent, the Mayor Pro Tem shall preside;

(C) Appoint standing committees and any other committees and outline their powers and duties as he or she deems necessary to properly care for the affairs of the town;

**Rockwell - Administration**

(D) Generally supervise and control all employees of the several departments of the town government;

(E) Have supervision over and control of the several departments or offices of the town government;

(F) Make recommendations as he or she deems necessary or expedient to the Board of Aldermen;

(G) Supply the Board of Aldermen with any necessary information respecting any of the several departments under his or her control; and

(H) Sign all checks, drafts, purchase orders or warrants for the disbursement of the town funds, except as provided in ' 37.02.  
(1989 Code, ' 2-103)

**' 31.28 VOTE ON BOARD.**

When there is an equal division of the Board of Aldermen upon any question or in the election of officers, the Mayor may vote to break the tie but shall have no vote under any other circumstances.  
(1989 Code, ' 2-104)

***Statutory reference:***

*Powers of Mayor, see G.S. ' ' 160A-67 et seq.*

**' 31.29 COMPENSATION.**

The Board of Aldermen may fix the compensation of elected officials as provided in G.S. ' 160A-64.  
(1989 Code, ' 2-105)

***CLERK*****' 31.40 DUTIES.**

(A) The Town Clerk shall attend all meetings of the Board of Aldermen and keep regular and complete minutes of the Board. He or she shall be the custodian of all records of the town.

(B) The Town Clerk shall keep in some secure place the seal of the town and affix the seal to whatever papers the Board of Aldermen shall direct.  
(1989 Code, ' 2-121)



***TREASURER***

**' 31.55 DUTIES.**

The Treasurer shall pay all bills of the town upon approval of the payment by the Board of Aldermen, but is authorized to pay the fuel bill, light bill, gas bill and any line items of the budget not to exceed \$500 if authorized by the Mayor without prior authorization by the Board of Aldermen. (1989 Code, ' 2-136) (Am. Ord. passed 11-9-1992)



## CHAPTER 32: BOARDS AND COMMISSIONS

### Section

#### *Planning Board*

- 32.01 Established; jurisdiction
- 32.02 Composition
- 32.03 Term of office
- 32.04 Powers and duties

#### *Community Appearance Commission*

- 32.15 Establishment
- 32.16 Membership, qualifications and terms of office
- 32.17 Organization
- 32.18 Powers and duties
- 32.19 Annual report
- 32.20 Advisory Council, committees
- 32.21 Staff and technical services

#### ***PLANNING BOARD***

##### **' 32.01 ESTABLISHED; JURISDICTION.**

There is hereby established a Board to be known as the Rockwell Planning Board whose jurisdiction shall include the town and the extraterritorial jurisdictional area of the town as shown on the official zoning map of the town.

(1989 Code, ' 13-26)

**' 32.02 COMPOSITION.**

The Planning Board shall be composed of 13 members (this includes 2 alternates). Six members shall be citizens and residents of the town appointed by the Town Aldermen. One of these members will be listed as an alternate. Seven members shall be residents of the extraterritorial jurisdiction area (ETJ) and they shall be appointed by the Rowan county Board of Commissioners. One of these members will be listed as an alternate. Terms shall be staggered in 1-, 2- and 3-year increments.

**' 32.03 TERM OF OFFICE.**

Each member of the Planning Board shall be appointed for a term of 3 years except for the initial appointments when 2 members shall be appointed for a term of 1 year, 2 members for a term of 2 years, and 3 members for a term of 3 years. Vacancies shall be filled for unexpired portions of terms in the same manner as an original appointment.

(1989 Code, ' 13-28)

***Statutory reference:***

*Authority to create planning agency, see G.S. ' 160A-361*

*Jurisdiction, see G.S. ' ' 160A-360, 160A-162*

*Planning, generally, see G.S. ' ' 160A-360 et seq.*

**' 32.04 POWERS AND DUTIES.**

The powers and duties of the Planning Board of the town shall be those set forth in G.S. Chapter 160A, Article 19 and others as defined by the Town Board of Aldermen.

(1989 Code, ' 13-26)

***COMMUNITY APPEARANCE COMMISSION*****' 32.15 ESTABLISHMENT.**

There is hereby created and established the Town of Rockwell, North Carolina, Community Appearance Commission, hereinafter referred to as the Commission, composed of 9 members appointed by the Board of Aldermen from the Town of Rockwell's planning and zoning jurisdiction at the time of the appointment.

(Ord. passed 4-6-1992)

**32.16 MEMBERSHIP, QUALIFICATIONS AND TERMS OF OFFICE.**

(A) Where possible, appointments shall be made in a manner as to maintain on the Commission at all times a majority of members who have had special training or experience in a design field, such as architecture, landscape design, horticulture, city planning or closely related field.

(B) Members shall be appointed for 3-year staggered terms. Initially, Commission appointments shall be:

(1) Three members for a 1-year term;

(2) Three members for 2-year terms; and

(3) Three members for 3-year terms with terms expiring on June 30 of the appropriate term of the appointment.

(C) All subsequent appointments, except to fill a vacancy, shall be for the 3-year terms.

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

(Ord. passed 4-6-1992)

**32.17 ORGANIZATION.**

(A) The Commission, within 30 days of its appointment, shall meet and elect a Chairperson, Vice-Chairperson and a secretary: the latter officer need not be a member of the Commission. It shall also adopt by-laws to govern the conduct of its business.

(B) The Commission shall maintain a record of its members attendance, its actions, findings and recommendations, which records shall be open to the public.

(C) A quorum of a majority of current members shall be necessary to take any official action authorized or required by this subchapter.

(Ord. passed 4-6-1992)

**' 32.18 POWERS AND DUTIES.**

The Commission shall have the following powers and duties:

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

(B) To initiate, promote and assist in the implementation of programs of general community beautification in the town;

(C) To seek to coordinate the activities of individuals, agencies, and organizations, public and private, whose plans, activities and programs bear upon the appearance of the town;

(D) To provide leadership and guidance in matters of area or community design and appearance to individuals, and to public and private organizations and agencies;

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

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

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

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

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

(J) To seek voluntary adherence to the standards and policies of its plans;

(K) To enter, in the performance of its official duties and at reasonable times, upon private lands, with the property owner's permission, and make examinations or surveys;

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

(M) To conduct public meetings and hearings, giving reasonable notice to the public thereof.  
(Ord. passed 4-6-1992)

**' 32.19 ANNUAL REPORT.**

The Commission shall, no later than April 15 of each year, submit to the Town Aldermen a written report of its activities, a statement of its expenditures to date for the current fiscal year and its requested budget for the next fiscal year.  
(Ord. passed 4-6-1992)

**' 32.20 ADVISORY COUNCIL, COMMITTEES.**

The Commission may establish an advisory council when in the judgement of the Commission a council will be an aid to the performance of its duties. However, the Commission shall not delegate to the advisory council any of its official powers or duties. In addition, the Commission may, from its own membership, establish any temporary or permanent committees needed to assist it in the study of specific questions and problems.  
(Ord. passed 4-6-1992)

**' 32.21 STAFF AND TECHNICAL SERVICES.**

The Commission may recommend to the Town Aldermen suitable arrangements for the procurement or provision of staff or technical services for the Commission.  
(Ord. passed 4-6-1992)





## CHAPTER 33: POLICE DEPARTMENT

### Section

#### *General Provisions*

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- 33.03 Board to have control
- 33.04 Use of police car
- 33.05 Political activities
- 33.06 Leaving the town limits
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- 33.25 Duties
- 33.26 Duty hours
- 33.27 Contract of employment
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#### *Auxiliary Police*

- 33.40 Division established
- 33.41 Control, appointments and removal
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- 33.43 Identification
- 33.44 Carrying and custody of firearms
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#### ***Statutory reference:***

*Law enforcement generally, see G.S. ' ' 160A-281 et seq.*

*Powers and duties of police, see G.S. ' 160A-285*

## **GENERAL PROVISIONS**

**' 33.01 REESTABLISHMENT.**

The Town of Rockwell reestablishes the Rockwell Police Department as an active municipal police agency, effective 3-1-2001, in accordance with state law, including but not limited to G.S. Chapter 160A, Article 13, entitled Law Enforcement.

(Res. passed 2-12-2001)

**' 33.02 ORGANIZATION.**

The Board shall, at the time as it deems proper, appoint a Chief of Police for the town to serve for the time as the Board may decide upon, and to receive a salary as the Board may prescribe. The Board shall also select other police officers or assistants as it may deem proper, to serve for the time and receive compensation as the Board may prescribe.

***Statutory reference:***

*Town's authority to appoint police, see G.S. ' 160A-281*

**' 33.03 BOARD TO HAVE CONTROL.**

The Board of Aldermen shall have general supervision over the Police Department. The Board may suspend for cause, any member of the Police Department until the next regular meeting at which time final disposition shall be made.

(1989 Code, ' 14-27)

**' 33.04 USE OF POLICE CAR.**

(A) Police vehicles shall be used only for official police business.

(B) Official police business shall be deemed to include, but shall not be limited to, the following:

(1) The exercise of the extraterritorial powers given policemen under G.S. ' 160A-286;

(2) The transportation of a person for the purpose of administering any type of breath or blood test, polygraph, or C.V.S.A test;

(3) The transportation of a person to the county jail or other location for confinement for the purpose of confining the same therein;

(4) The transportation of police personnel or subpoenaed witnesses to the county courthouse to appear as witnesses therein or to aid any criminal investigation or criminal prosecution; and

(5) Except in the case of emergencies, no police car shall be used to transport persons other than town employees, persons on official town business and persons who have been arrested by the town police, and persons being transported as witnesses to court.

(C) Anyone in the Police Department who violates this section shall have his or her employment with the town terminated.

(1989 Code, ' 14-28)

**' 33.05 POLITICAL ACTIVITIES.**

There shall be no participation in local, county or state politics by any police officer before, during or after any election except to vote.

(1989 Code, ' 14-29)

**' 33.06 LEAVING THE TOWN LIMITS.**

When on duty, a police officer shall not leave the town limits, except on official business as described in ' 33.04.

(1989 Code, ' 14-30)

**' 33.07 PRISONERS' PROPERTY.**

Any property taken from a prisoner that is to be used as evidence shall be fully accounted for, tagged or marked, and kept under lock and key, and a record shall be maintained of same.

(1989 Code, ' 14-32)

**' 33.08 ARRANGING BAIL.**

Any prisoner who is bailable shall be permitted to use the telephone to contact his or her lawyer or friends or to make arrangements for bond. No officer shall recommend any lawyer or bondsman to any prisoner.

(1989 Code, ' 14-33)

**' 33.09 CARE AND USE OF UNIFORMS.**

Uniforms must be kept in clean and good condition at all times. No police officer shall wear any frayed or badly patched uniform or any part thereof.

(1989 Code, ' 14-34)

**' 33.10 FIREARMS.**

(A) The Chief of Police or other police officer shall not draw or point his or her firearm unless required to do so when performing his or her duty.

(B) Upon any intentional or accidental discharge of his or her firearm, the officer shall:

(1) Immediately report the discharge to the Chief of Police; and

(2) Give a written report of the circumstances of the discharge to the Chief of Police before ending the officer's tour of duty, or within 8 hours if off-duty.

(C) Divisions (A) and (B) above do not apply to practice firing at a target range.

(D) The Chief of Police or other police officer shall not sign a gun permit application for any person outside his or her immediate family.

(1989 Code, ' 14-35)

**' 33.11 POWERS AND DUTIES.**

The Chief of Police and each police officer shall:

(A) Have within the corporate limits of the town and within 1 mile of the corporate limits, all the powers vested in law enforcement officers by statute or common law;

(B) Preserve the peace by suppression of all disturbances and apprehension of all offenders;

(C) Have power to serve all civil and criminal process that may be directed to him or her by any officer by the general court of justice;

(D) Enforce all laws of the state and all rules, regulations or ordinances prescribed or enacted by the Board;

(E) Be diligent in the enforcement of the law and good order of the town;

(F) Assign duties as deemed necessary to other police officers of the town;

(G) Maintain at police headquarters a daily report, listing all arrests, investigation calls received,

and any other activities of the Department. In all cases of street or sidewalk accidents wherein the town may be held liable or any liability attached, the report must contain all information bearing on the matter, and be fully and clearly explained, and give names and addresses of all witnesses;

(H) Make a monthly report to the Board concerning activities of the Police Department;

(I) Check places of business for their licenses to operate and when one is found to be operating without a license, notify the Town Clerk without delay; and

(J) Perform all other police related duties as directed by the Mayor and be familiar with and follow this subchapter of the town code.

(1989 Code, ' 14-26)

***Statutory reference:***

*Powers within 1 mile of corporate limits, see G.S. ' 160A-286*

***CHIEF OF POLICE***

**' 33.25 DUTIES.**

(A) (1) The Chief shall have control over the Police Department under the supervision of the Board.

(2) He or she shall be responsible to the Mayor. The Chief shall keep the Mayor informed of the Department's activities. The Mayor shall advise the Chief of any directives from the Board, and the Chief shall, in turn, advise the other police officers.

(3) The Chief shall perform other duties as may be required of him or her by the Board.

(B) The Chief of Police is responsible for the enforcement of all laws and ordinances coming within the town's legal jurisdiction. The Chief is responsible for directing and coordinating all activities of the Department, for its continued and efficient operation, for the completion and forwarding of reports as may be required by the Town Board, the state and other competent authorities, and for the Department's good relations with local citizens, the town's government and other related agencies.

(1989 Code, ' 14-51)

**' 33.26 DUTY HOURS.**

As a public servant charged with the preservation of peace and the protection of life and property, the Police Chief shall be on duty during a regularly assigned workweek, as determined by the Town Board; however, there is no hour of the day or night which the Police Chief shall be excused from performing his or her duties in emergency situations.  
(1989 Code, ' 14-52)

**' 33.27 CONTRACT OF EMPLOYMENT.**

(A) The Mayor is empowered and authorized to execute on behalf of the town a contract of employment for the duties elected of the Chief of Police.

(B) The contract is to contain the following terms and conditions:

- (1) Annual salary;
- (2) Benefits described;
- (3) Vacation and holiday described;
- (4) Hours of work;
- (5) Duties; and

(6) To state that the Chief=s employment will be at the will and at the pleasure of the Board of Aldermen.  
(Res. passed 7-10-2002)

**' 33.28 MUTUAL AID.**

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

(B) The Chief of Police is hereby authorized to permit officers of the Town of Rockwell Police Department to work temporarily with officers of the requesting agency, including in an undercover capacity, and the Chief of Police may lend such equipment and supplies to the requesting agencies as he or she deems advisable.

(C) All such requests and authorizations shall be in accordance with G.S. ' 160A-288, as applicable.

(D) While working with the requesting agency, an officer shall have the same jurisdiction, powers,

rights, privileges and immunities (including those relating to the defense of civil actions and payment of judgements) as the officers of the requesting agency in addition to those the officer normally possesses.

(E) While on duty with the requesting agency, an officer shall be subject to the lawful and operational commands of the officer=s superior officers in the requesting agency, but the officer shall for personnel and administrative purposes, remain under the control of the officer=s own agency, including for purposes of pay. An officer shall furthermore be entitled to work=s compensation and the same benefits to the extent as though he or she were functioning within the normal scope of the officer=s duties.

(F) The Chief of Police is hereby authorized to enter into mutual assistance agreements with other law enforcement agencies in accordance with such reasonable arrangements, terms and conditions as may be agreed upon between the respective heads of the law enforcement agencies.

(G.S. ' 160A-288) (Res. passed 2-9-2004)

***AUXILIARY POLICE***

**' 33.40 DIVISION ESTABLISHED.**

There is hereby established 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 Board. Each appointment to the Auxiliary Police Division shall be approved by the Town Board.

(1989 Code, ' 14-71)

**' 33.41 CONTROL, APPOINTMENTS AND REMOVAL.**

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

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

(1989 Code, ' 14-72)

**' 33.42 DUTIES.**

(A) The duties of the Auxiliary Police Division shall be as provided for in ' 33.11, the section being incorporated by reference in this section.

(B) The Chief of Police may prescribe duties other than those mentioned in this section to be performed by the Auxiliary Police Division, with approval of the Board of Aldermen.  
(1989 Code, ' 14-73)

**' 33.43 IDENTIFICATION.**

An identification card and other insignia or evidence of identity as the Chief may prescribe shall be issued to each member of the Auxiliary Police Division who must carry the card and other identification at all times while on duty, and who must surrender them upon the termination of his or her membership.  
(1989 Code, ' 14-74)

**' 33.44 CARRYING AND CUSTODY OF FIREARMS.**

(A) Members of the Auxiliary Police Division are authorized to carry a firearm while on duty, subject to rules and regulations as may be from time to time promulgated by the Board of Aldermen and the Chief of Police.

(B) All members of the Auxiliary Police Division who carry a firearm while on duty pursuant to this subchapter shall do so in accordance with ' 33.10.  
(1989 Code, ' 14-75)

**' 33.45 LAW ENFORCEMENT POWERS.**

Any member of the Auxiliary Police Division acting pursuant to the authority in this subchapter, shall at all times act in accordance with the policies and procedures established for the governance of the regular police, to the extent the policies and procedures are not superseded by the provisions of this subchapter.  
(1989 Code, ' 14-76)



**' 33.46 BENEFITS.**

(A) While undergoing official training and while performing duties on behalf of the town pursuant to orders or instructions of the Chief of Police, members of the Auxiliary Police Division shall be entitled to benefits under the North Carolina Worker's Compensation Act.

(B) All ordinances in conflict with this subchapter are hereby repealed.  
(1989 Code, ' 14-77)



## CHAPTER 34: FIRE DEPARTMENT

### Section

#### *Fire Code*

- 34.001 Adoption
- 34.002 Determinations in addition to those enumerated
- 34.003 Appeal of decisions
- 34.004 Access to interior multistory buildings
- 34.005 Fighting fires beyond town limits

#### *Bureau of Fire Prevention*

- 34.020 Created
- 34.021 Appointment of Chief
- 34.022 Inspectors

#### *Fire Department Generally*

- 34.035 Organization
- 34.036 Committee on Fire Department personnel

#### *Fire Department Bylaws and Standard Operating Procedures*

- 34.050 Name
- 34.051 Meetings
- 34.052 Membership
- 34.053 Organization
- 34.054 Compensation
- 34.055 Representation
- 34.056 Amendment
- 34.057 Driver qualifications
- 34.058 General qualifications
- 34.059 Person to man station during fire
- 34.060 Calls outside city
- 34.061 Riding in apparatus

*Chief*

- 34.075 Duties
- 34.076 Deputy Chief
- 34.077 Record of fires
- 34.078 Report to Board
- 34.079 Testing of hydrants

***FIRE CODE*****' 34.001 ADOPTION.**

There is hereby adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, those certain codes, known as the NFPA Fire Prevention Code, 2000 edition and the NFPA 1 Uniform Fire Code, 2006 edition, of which codes not less than 2 copies have been and are now filed in the office of the Town Clerk. These codes are hereby adopted and incorporated herein by reference as fully as if set out at length, and the provisions thereof shall be controlling within the limits of the town.

(1989 Code, ' 7-26)

***Statutory reference:***

*Authority to adopt by reference, see G.S. ' 160A-76(b)*

**' 34.002 DETERMINATIONS IN ADDITION TO THOSE ENUMERATED.**

The Chief of the Fire Department, the Chief of the Bureau of Fire Prevention and the Deputy Chief shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies which shall require permits in addition to those enumerated in the fire prevention code. The Chief of the Bureau of Fire Prevention shall post a list in a conspicuous place in the town hall and distribute copies thereof to interested persons.

(1989 Code, ' 7-27)

**' 34.003 APPEAL OF DECISIONS.**

When the Chief of the Fire Department, Assistant Chief and the Bureau of Fire Prevention Chief shall disapprove an application or refuse to grant a permit or license applied for or when it is claimed that the provisions of the Fire Prevention 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 Fire Chief to the Board of Aldermen within 30 days from the decision. Notice of the appeal shall be in writing to the Town Clerk.

(1989 Code, ' 7-28)

**' 34.004 ACCESS TO INTERIOR MULTISTORY BUILDINGS.**

(A) All buildings exceeding 1 story in height, exclusive of basement or cellar, erected or altered after August 1963 shall provide suitable access from the outside to each story above the ground or street floor.

(B) The term *SUITABLE ACCESS* as used in this section, shall mean at least 1 opening through the front wall or street wall for each story of the building; provided, that buildings in excess of 50 feet in width shall have at least 2 openings which shall be spaced not more than 25 feet apart, measured horizontally and from center to center.

(C) (1) The wall openings as provided in this section must be at least 32 inches wide and 48 inches in height with the sill at least 32 inches above the floor level.

(2) The closures of the openings must be made of breakable glass or equally removable transparent material with wire glass where required.

(3) The openings shall always remain unobstructed in order to provide ready entrance in the event of fire.

(D) The provisions of this section shall not apply to any building equipped throughout with an approved automatic sprinkler system.

(1989 Code, ' 7-29)

**' 34.005 FIGHTING FIRES BEYOND TOWN LIMITS.**

(A) Neither the personnel of the Fire Department nor the Department's firefighting apparatus shall be used for fighting fires beyond the town limits, except as follows:

(1) Where it becomes necessary to protect property within the town from fires occurring outside the town;

(2) Where agreements, authorized by the Board of Aldermen, have been entered into to afford standby fire protection to county property and the properties of business and industry located beyond the town limits, but only to the extent of the agreements; or

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(3) Where mutual aid agreements, have been entered into by the town and its neighboring cities and towns.

(B) The Fire Chief is hereby authorized to negotiate with other localities for mutual fire aid agreements. Any agreement shall be effective upon approval of the governing bodies of the participating governments.

(C) If the town agrees with the county, or the owners of property, outside the town, to provide fire protection therefor, any employee of the Fire Department, while engaged in any duty or activity outside the corporate limits of the town pursuant to orders of the Fire Chief, shall have all of the jurisdiction, authority, rights, privileges, and immunities, including coverage under the Worker's Compensation laws, which they have within the corporate limits of the town.

(D) If no agreement is in effect with an outside Fire Department:

(1) When a department makes a call within the town, the town shall pay a fixed amount to be established for the calls; and

(2) The Fire Chief may direct calls to be made outside the town so long as the locality receiving the fire call pays the charge provided for above for each call answered.

(E) The Board may establish a schedule of supplementary compensation for firefighters answering out-of-town calls.

(1989 Code, ' 7-6)

***Statutory reference:***

*Fire protection outside city, see G.S. ' 160A-293*

*Mutual aid generally, see G.S. ' 166A-10*

***BUREAU OF FIRE PREVENTION*****' 34.020 CREATED.**

The Fire Prevention Code shall be enforced by the Bureau of Fire Prevention which is hereby established and which shall operate under the supervision of the Chief of the Fire Department.

(1989 Code, ' 7-46)

**' 34.021 APPOINTMENT OF CHIEF.**

The Chief of the Bureau of Fire Prevention shall be appointed by the Chief of the Fire Department, subject to the approval of the Board of Aldermen on the basis of his or her qualifications and merit.  
(1989 Code, ' 7-47)

**' 34.022 INSPECTORS.**

The Chief of the Fire Department may detail the members of the Fire Department as Inspectors as shall from time to time be necessary.  
(1989 Code, ' 7-48)

***FIRE DEPARTMENT GENERALLY***

**' 34.035 ORGANIZATION.**

The Fire Department shall consist of the Chief of the Fire Department and a sufficient number of voluntary firefighters to maintain and operate the Department. The Board of Aldermen shall appoint the Chief and Deputy Chief, and approve the appointment to and removal from the Department, of all members. The Department may, from time to time, adopt its own rules and regulations governing the Department, subject to the approval of the Board of Aldermen.  
(1989 Code, ' 7-66)

**' 34.036 COMMITTEE ON FIRE DEPARTMENT PERSONNEL.**

The Chief of the Fire Department, the Chief of the Bureau of Fire Prevention and the Assistant Fire Chief shall constitute a committee on personnel for the Fire Department. This committee shall be empowered to set standards of personnel performance and qualifications of the Department in accord with published procedure subject to approval by the Board of Aldermen.  
(1989 Code, ' 7-67)

***FIRE DEPARTMENT BY-LAWS AND STANDARD OPERATING PROCEDURES*****' 34.050 NAME.**

The name of this organization shall be the Rockwell Fire Department.  
(1989 Code, ' 7-81)

**' 34.051 MEETINGS.**

The members of the Fire Department shall meet twice per month; place and time shall be decided by Department members and approved by the Chief of the Department.  
(1989 Code, ' 7-82)

***Statutory reference:***

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

**' 34.052 MEMBERSHIP.**

(A) The fees for membership shall be the regular prescribed fees as set by the State Firemen Association.

(B) Initiation fee shall be \$5 for new members payable with application.

(C) Membership fees shall be paid by the Department provided that renewal qualifications are met, as provided in this section.

(D) To be eligible for renewal of membership, each member shall attend at least 1 meeting per month, or 12 meetings per year, and have a minimum of 25 in-house training hours per year and an overall total of 50 hours per year.

(E) All applicants for membership shall be at least 18 years of age and not over 55 years of age, except that members may transfer from another department up to 62 years of age.

(F) All new members shall familiarize themselves with the International Fire Service Training Association (IFSTA) from Oklahoma State University.

(G) No member of the Department shall operate any apparatus that is assigned to the Department without being approved by the Chief as a qualified officer. Age limits for specific apparatus types shall be established by the Chief.



(H) No Fire Department member shall belong to more than 1 fire department in the same county except that any person employed full time by the town who belonged to another fire department prior to his or her employment by the town may be permitted to join the Rockwell Fire Department.

(I) The number of active members shall be limited to 46.  
(1989 Code, ' 7-83)

(J) The Department shall be comprised of primarily volunteer members with supplemental paid staff to form a combination Department.

**' 34.053 ORGANIZATION.**

(A) The officers of the organization shall be: Chief, Deputy Chief, First and Second Captain, First and Second Lieutenant, secretary, assistant secretary, chaplain and assistant chaplain.

(B) The Chief and Deputy Chief shall be appointed by the Board of Aldermen. The Fire Department members may make recommendations for the Chief and Deputy Chief.

(C) The Chief shall appoint the following committee each year:

(1) Refreshment;

(2) Publicity; and

(3) Fireman's Relief Fund.

(1989 Code, ' 7-84)

**' 34.054 COMPENSATION.**

(A) All volunteer members of the Department shall be volunteers and shall receive no compensation except as may be provided in this section.

(B) All firefighters shall be paid for each fire attended, in an amount set by the Board of Aldermen, provided that each firefighter shall answer roll call after the fire trucks have returned to the fire station and all necessary replacements are made and cleaning and storage of the equipment is complete.

(1989 Code, ' 7-85)

(C) Part-time firefighters may be provided for coverage at a time and rate of pay as set by the Board of Aldermen. All part-time personnel shall be under the direction of the Chief and Board of Aldermen and shall comply with the guidelines set by the town for part-time employees.

**' 34.055 REPRESENTATION.**

(A) Two delegates to the county firemen's association shall be elected at the beginning of each year.

(B) The Department shall be represented at the annual state convention by 1 or more delegates.

(C) Any member who becomes in excess of 3 months delinquent in the fire department state insurance dues or the North Carolina Fireman's Pension Fund, shall be dropped from the fund, after a written notice has been given, if appropriate action is not taken within 15 days.

(1989 Code, ' 7-86)

**' 34.056 AMENDMENT.**

This division may be amended at any time by the Board of Aldermen.

(1989 Code, ' 7-87)

**' 34.057 DRIVER QUALIFICATIONS.**

The driver of any fire apparatus must be at least 21 years of age and be a qualified pump operator certified by the Chief.

(1989 Code, ' 7-88)

**' 34.058 GENERAL QUALIFICATIONS.**

A firefighter shall satisfy the Chief and the safety officer as to his or her being qualified to work emergency situations before he or she shall be allowed to engage in actual emergency work.

(1989 Code, ' 7-89)

**' 34.059 PERSON TO MAN STATION DURING FIRE.**

At least 1 member of the Fire Department will stay at the fire station during any fire, provided manpower is available and at the discretion of the officer in charge.

(1989 Code, ' 7-90)

**' 34.060 CALLS OUTSIDE CITY.**

Engine 702 and Ladder 703 will be available for mutual aid calls outside city limits if needed. If any emergency arises so that additional apparatus are needed, the Chief may designate additional apparatus, but at no time will the station be left without a fire engine.

(1989 Code, ' 7-91)

***Statutory reference:***

*Fire prevention outside city, see G.S. ' 160A-293*

**' 34.061 RIDING IN APPARATUS.**

Only active members of the Fire Department may ride in fire apparatus.

(1989 Code, ' 7-92)

***CHIEF***

**' 34.075 DUTIES.**

The Chief, subject to supervision by the Board 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 person prohibited to be within roped-off areas as provided in ' 130.46;

(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, report annually to the Board the condition of all equipment; and

(D) Inspect or cause to be inspected all fire hydrants and fire alarm systems and make a report of the inspections to the Board.

(1989 Code, ' 7-106)

***Statutory reference:***

*Authority of Chief as investigator and inspector, see G.S. ' ' 58-79-1 and 58-79-20*

*Authority to obtain information from insurance company, see G.S. ' 58-79-40*

*Fire Chief generally, see G.S. ' 160A-292*

**' 34.076 DEPUTY CHIEF.**

In the absence of the Chief, the Deputy Chief shall perform all duties required of the Chief, and shall be clothed with the same authority as the Chief.

(1989 Code, ' 7-107)

**' 34.077 RECORD OF FIRES.**

(A) The Chief shall keep, or shall cause to be kept, an accurate record of all fires.

(B) For each fire the following information shall be secured and kept:

- (1) Location;
- (2) Owner;
- (3) Brief description of premises, whether of brick, stone, concrete, iron or wood;
- (4) How occupied, whether as dwelling, storehouse, factory, workshop or otherwise;
- (5) Amount and nature of damage as to both real and personal property;
- (6) Amount of insurance;
- (7) Cause of fire; and
- (8) Date.

(1989 Code, ' 7-108)

**' 34.078 REPORT TO BOARD.**

The Fire Chief may be required to make an annual written report, accompanied by affidavit, of all meetings of the Fire Department personnel, all fires occurring in the town and all out-of-town calls made by members of the Department.

(1989 Code, ' 7-109)

**' 34.079 TESTING OF HYDRANTS.**

The Fire Chief shall have all fire hydrants tested periodically and shall notify the proper town officials of any hydrants that are not in good working order.  
(1989 Code, ' 7-110)



## CHAPTER 35: CIVIL EMERGENCIES

### Section

- 35.01 Proclamation imposing prohibitions and restrictions
- 35.02 Curfew
- 35.03 Restrictions on intoxicating liquor
- 35.04 Restrictions on dangerous weapons and substances
- 35.05 Restrictions on access to areas
- 35.06 Amendments of the proclamation
- 35.07 Removal of prohibitions and restrictions
- 35.08 Separate and superseding proclamations
  
- 35.99 Penalty

#### **§ 35.01 PROCLAMATION IMPOSING PROHIBITIONS AND RESTRICTIONS.**

(A) The Mayor by proclamation may impose the prohibitions and restrictions specified in §§ 35.02 through 35.05 of this chapter in the manner described in those sections. The Mayor may impose as many of those specified prohibitions and restrictions as he or she finds are necessary, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety and property. The Mayor shall recite his or her findings in a proclamation.

(B) The proclamation shall be in writing. The Mayor shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in the town hall. The Mayor shall retain a text of the proclamation and furnish upon request certified copies of it for use as evidence.

(1989 Code, § 6-1)

#### **§ 35.02 CURFEW.**

(A) The emergency proclamation may impose a curfew prohibiting in certain areas and during certain periods the appearance in public of anyone who is not a member of an exempted class. The proclamation shall specify the geographical area or areas and the period during each 24-hour day to

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

(B) Unless otherwise specified in the proclamation, the curfew shall apply during the specified period each day until the Mayor by proclamation removes the curfew.  
(1989 Code, ' 6-2) Penalty, see ' 35.99

### ' 35.03 RESTRICTIONS ON INTOXICATING LIQUOR.

(A) The emergency proclamation may prohibit the possession or consumption of any intoxicating liquor, including beer and wine, other than on one's own premises, and may prohibit the transfer of any intoxicating liquor. The prohibition, if imposed, shall apply to transfers of intoxicating liquor by employees of Alcoholic Beverage Control stores as well as by anyone else within the town.

(B) If imposed, the restrictions shall apply throughout the town.  
(1989 Code, ' 6-3) Penalty, see ' 35.99

### ' 35.04 RESTRICTIONS ON DANGEROUS WEAPONS AND SUBSTANCES.

(A) The emergency proclamation may prohibit the possession of any dangerous weapon or substance unless it remains in a place of storage within the possessor's premises, or if the weapon or substance cannot be readily stored in the possessor's premises, unless it remains in a customary place of storage not readily available to the possessor. The proclamation may also prohibit the sale or other transfer or the transportation of any dangerous weapon or substance. The Mayor may exempt from some or all of the restrictions classes of people whose possession, transfer, or transportation of certain dangerous weapons or substances is necessary to the preservation of the public health, safety, or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(B) *DANGEROUS WEAPON OR SUBSTANCE* means:

(1) Any deadly weapon, ammunition, incendiary device, or other instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property;

(2) Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that the instrument or substance will be so destructively used; and



(3) Any part or ingredient in any instrument or substance included above.

(C) If imposed, the restrictions shall apply throughout the jurisdiction of the town.  
(1989 Code, ' 6-4) Penalty, see ' 35.99

**' 35.05 RESTRICTIONS ON ACCESS TO AREAS.**

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

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

(1989 Code, ' 6-5) Penalty, see ' 35.99

**' 35.06 AMENDMENTS OF THE PROCLAMATION.**

The Mayor may amend the emergency proclamation from time to time, making modifications as he or she would have been authorized to include in the original proclamation.

(1989 Code, ' 6-6)

**' 35.07 REMOVAL OF PROHIBITIONS AND RESTRICTIONS.**

The Mayor shall by proclamation remove the prohibitions and restrictions as the emergency no longer requires them, or when directed to do so by the Board of Aldermen.

(1989 Code, ' 6-7)

**' 35.08 SEPARATE AND SUPERSEDING PROCLAMATIONS.**

The Mayor in his or her discretion may invoke the restrictions authorized by this chapter in separate proclamations, and may amend any proclamation by means of a superseding proclamation.

(1989 Code, ' 6-8)

**' 35.99 PENALTY.**

Any person violating any prohibition or restriction imposed by a proclamation authorized by this subchapter shall be guilty of a misdemeanor, punishable upon conviction by a fine or imprisonment as provided by G.S. ' 14-4.

(1989 Code, ' 6-9)

**CHAPTER 36: ELECTIONS**

Section

- 36.01 Nonpartisan basis
- 36.02 Date
- 36.03 Determination of results
- 36.04 Mayor
- 36.05 Swearing in

**' 36.01 NONPARTISAN BASIS.**

All elected officials of the town shall be elected on a nonpartisan basis.  
(1989 Code, ' 2-151)

**' 36.02 DATE.**

The members of the Board of Aldermen shall be elected on Tuesday after the first Monday in November in odd-numbered years, or any other day as shall be set from time to time by statute.  
(1989 Code, ' 2-152)

***Statutory reference:***

*Similar provisions, see G.S. ' 163-279(a)(1)*

**' 36.03 DETERMINATION OF RESULTS.**

The officers who shall occupy the elective offices of the town shall be determined in accordance with the following rules pursuant to G.S. ' 163-292.

(A) When more than 5 persons are seeking election to the 5 seats of the Board of Aldermen, those 5 candidates receiving the highest number of votes shall be declared elected.

(B) If each of 2 or more candidates receiving the highest number of votes shall receive the same number of votes, then the Board of Elections shall determine the winner by lot.  
(1989 Code, ' 2-153)

**' 36.04 MAYOR.**

(A) The Mayor shall be elected on a ticket separate from the Board of Aldermen and shall be elected on a nonpartisan basis.

(B) The election shall be held on the Tuesday after the first Monday in November in odd-numbered years.

(1989 Code, ' 2-154)

**' 36.05 SWEARING IN.**

All elected officials shall be sworn in by the County's Clerk of Court or any other official as may be designated from time to time by the Clerk of the Court at the December meeting of the Board of Aldermen after the November election. These officials shall take office immediately upon taking the oath.

(1989 Code, ' 2-155)

## CHAPTER 37: FINANCES

Section

### *Purchasing Procedures*

- 37.01 Incidental expenses
- 37.02 Expenditures approved by aldermen
- 37.03 Department budgetary expenditures
- 37.04 Mayor as purchasing agents

### *PURCHASING PROCEDURES*

#### **' 37.01 INCIDENTAL EXPENSES.**

The Mayor shall keep an account in a book provided for that purpose of all money expended by him or her for incidental expenses, but the Mayor shall pay no bill or account unless the bill shall be absolutely necessary and the party cannot wait to have the bill approved by the Board of Aldermen, provided that, no bill exceeding the sum of \$500 shall be paid by the Mayor by reason of the account. (1989 Code, ' 2-186)

#### **' 37.02 EXPENDITURES APPROVED BY ALDERMEN.**

The Board of Aldermen shall approve the expenditure of all funds for the town prior to any expenditure except as provided in ' 37.01, in which case the Board of Aldermen shall ratify any expenses at the next regular meeting following the Mayor's expenditure. (1989 Code, ' 2-187)

**' 37.03 DEPARTMENT BUDGETARY EXPENDITURES.**

Upon approval of the annual budget, the requirements of ' 37.02 are hereby deemed in compliance for any subsequent expenditure by any individual department provided that the expenditure is approved and authorized by the head of the department and further provided that the expenditure represents payment of a line budget item as appropriated in the budget and previously approved by the Board of Aldermen.

(1989 Code, ' 2-188)

**' 37.04 MAYOR AS PURCHASING AGENTS.**

The Mayor, or the Mayor Pro Tempore, in the absence of the Mayor, shall be the town purchasing agent to the extent that all expenditures provided for under ' 37.02 require that the Mayor shall personally sign any purchase orders to expend any other funds approved by the Board of Aldermen and under no circumstances shall any other person be entitled to sign a purchase order except by express written resolution of the Board of Aldermen.

(1989 Code, ' 2-189)