

### **TITLE III: ADMINISTRATION**

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## CHAPTER 30: TOWN COUNCIL

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### **GENERAL PROVISIONS**

#### **'30.01 ILLEGAL INTEREST IN CONTRACT MADE BY COUNCIL.**

No member of the Town Council or other officer of the town shall be pecuniarily interested, directly or indirectly, in any contract made or entered into by the town, nor in any matter where the rights or liabilities are or may be involved. ('74 Code, '2-19)

#### ***MEETINGS***

#### **'30.10 REGULAR MEETINGS.**

Regular meetings of the Town Council shall be held on the second Monday in each month, at 7:00 p.m.; provided, that when any such second Monday falls upon a holiday the Council may fix a different date for such regular meeting. All meetings of the Town Council shall be held in the council chamber of the town hall, unless for any meeting the council chamber is damaged or otherwise unsuitable for the holding of a meeting in which case the Town Council shall designate another place within the town for the meeting. ('74 Code, '2-8)

#### **'30.11 SPECIAL MEETINGS.**

(A) The Mayor, the Mayor Pro Tempore, or any two members of the Town 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 Councilmember 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. A person or persons calling a special meeting of Council shall also comply with the notice requirements of G.S. Chapter 143, Article 33C.

(1) 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.

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

(B) Any regular or duly-called special meeting may be recessed to reconvene at a time and place certain, or may be adjourned to reconvene at a time and place certain, by the Council. (G.S. ' 160A-71) ('74 Code, '2-9)

### **'30.12 ADJOURNED MEETINGS.**

Any regular or special meeting of the Town Council and any adjourned meeting thereof may adjourn to  
such time prior to the next regular meeting date as may be fixed by the Councilmembers present. ('74 Code, ' 2-10)

### **'30.13 QUORUM.**

(A) 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)

(B) If no quorum can be secured, the meeting shall stand adjourned until the next regular meeting. ('74 Code, '2-12)

### **'30.14 MAYOR TO PRESIDE.**

The Mayor shall preside over all meetings of the Town Council, and, in his absence, the Mayor Pro Tempore shall preside. In the absence of both, the Council may elect from its members a temporary chairperson to preside in such absence. ('74 Code, '2-11)

#### ***Statutory reference:***

*Presiding officer, see G.S. ' 160A-69 and 160A-70*

### **'30.15 RULES OF PROCEDURE.**

The Town Council may, by resolution, adopt such rules of procedure not inconsistent with state law, this code, or other ordinance, for the transaction of its business, the exercise of its powers, and the performance of its duties as the Town Council may deem appropriate for such purposes. These rules may include, but shall not be limited to, the order of business at its meetings; rules of parliamentary procedure; official conduct of Councilmembers; the conduct of hearings and investigations; appointment and jurisdiction of standing and special committees; and such other subjects as may be deemed appropriate. ('74 Code, '2-18)

### **'30.16 AGENDA.**

The Town Manager shall prepare an agenda for each regular meeting of the Town Council and mail or deliver copies thereof to the Mayor, each Councilmember, and the Clerk in time to be received in due course not less than four days prior to the meeting to which such agenda relates. The Mayor and each Councilmember shall have the privilege of advising the Town Manager, prior to the beginning of any such four-day period, as to subjects desired for inclusion in the agenda, but in preparing an agenda the Town Manager shall not be limited to subjects proposed by the Mayor and Councilmembers and he may include therein such other subjects as he may consider appropriate. Subjects not included in an agenda may be brought up at any regular meeting as the occasion may require by motion duly put, recorded, and carried. ('74 Code, '2-13)

### **'30.17 MINUTES.**

(A) The Clerk shall be ex officio clerk of the Town Council. The Clerk shall keep a complete and accurate account of all the proceedings of the Council and, upon request of any member of the Council, the ayes and noes upon any question shall be taken and entered in the minutes; and the minutes of the Town Council shall be open to the inspection of the public.

(B) Every resolution adopted or passed by the Town 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 minutes of each meeting, upon being approved by the Town Council, shall be signed by the Mayor and the Clerk. ('74 Code, '2-14)

## ***ORDINANCES***

### **'30.30 REQUIREMENTS FOR ENACTMENT.**

(A) Every ordinance amending or repealing any ordinance and every new ordinance shall be proposed in writing, signed by the Councilmember presenting it, and approved as to form by the Town Attorney.

(B) Every ordinance introduced, if it proposes to amend or repeal any existing portion of this code, shall show by proper reference the chapter, subchapter, and section proposed to be amended or repealed; or, if it proposes to add to the existing code a new chapter, subchapter, or section, it shall indicate with reference to the arrangement of this code the proper number of such chapter, subchapter, or section. In addition to such indication thereof, as may be contained in the text of the proposed ordinance, the subject matter shall be shown in concise form above the ordinance.

(C) Not more than one chapter, subchapter, or section of this code shall be amended, repealed, or ordained by any one ordinance unless such chapters, subchapters, or sections are consecutive. ('74 Code, '2-15)

### **'30.31 COPIES, RECORDS TO BE KEPT.**

(A) The Clerk shall file in his office the original copy of each ordinance adopted on or after January 1, 1972, and he shall file a true copy of each thereof in an ordinance book separate and apart from the minute book of the Town Council. The ordinance book shall be appropriately indexed and maintained for public inspection in the office of the Clerk. True copies of all ordinances that were adopted before January 1, 1972, and are still in effect shall be filed and indexed in the ordinance book.

(B) A true copy of each ordinance which amends or adds to this code shall be immediately inserted by the Clerk at its proper place in a volume of this code which he shall maintain in his office, and all portions of this code so amended or repealed shall be removed therefrom; and the Clerk shall make appropriate historical notes in the margin thereof. ('74 Code, '2-16)

(C) The Clerk shall file in his office the original copy of each resolution adopted, and he shall file a true copy of each resolution in a resolution book separate and apart from the minute book of the Town Council. True copies of resolutions so filed in the resolution book shall be annotated in the margin if and when amended, and shall be removed when suspended, repealed, lapsed, or executed. The resolution book shall be appropriately indexed. ('74 Code, '2-17)

## **CHAPTER 31: TOWN OFFICIALS**

### **Section**

#### ***General Provisions***

- 31.01 Bond
- 31.02 Right of entry for inspections
- 31.03 Authority to administer oaths: false swearing
- 31.04 Authority of deputies and acting officers
- 31.05 Concurrent officeholding

#### ***Town Officers***

- 31.10 Mayor
- 31.11 Mayor Pro Tempore
- 31.12 Town Manager
- 31.13 Town Clerk
- 31.14 Town Attorney; Assistant Town Attorney
- 31.15 Town Tax Collector
- 31.16 Finance Officer
- 31.17 Budget Officer
- 31.18 Chief of Police
- 31.19 Chief of Fire Department
- 31.20 Zoning Administrator

## **GENERAL PROVISIONS**

### **'31.01 BOND.**

(A) Every officer, employee, or agent of the town who in the course of his official duties receives, handles, or has custody of or control over more than \$100 of town funds, negotiable instruments, or securities at any time shall, before entering upon his duties as an officer, employee, or agent and within ten days of his election or appointment, give bond, payable to the town, with corporate surety, in such amount not less than \$500 as shall be determined by the Town Council, and conditioned upon the

faithful performance of his duties, a true accounting to give of all town funds, negotiable instruments, and securities received or handled by him or coming within his custody or under his control, and payment thereof to the town; however, the bond of the Clerk shall be in an amount not less than \$15,000, the bond of the Town Tax Collector shall be not less than \$15,000, and the bond of the Finance Officer shall be not less than \$15,000. Further, during any period when two or more positions are held by the same person, the bond for such person shall be in the amount of not less than the highest amount required for any one of such positions. ('74 Code, ' 2-1)

(B)All officers, employees, and agents of the town who, in line of duty, are required or authorized to carry firearms, shall give bond, payable to the town, with corporate surety, in such amount not less than \$10,000 as may be specified by the Town Council, and conditioned upon the faithful performance of their respective duties and the payment of any judgment or decree which may be rendered against them for the negligent or unlawful use or handling of such firearm and to save the town harmless from all claims and demands whatsoever for the negligent or unlawful use or handling of such firearm. ('74 Code, ' 2-2)

(C)The Town Council may adopt a system of blanket faithful performance and honest) bonding as an alternative to the individual bonds provided in division (A); provided, that the minimum amounts as specified in division (A) for the Clerk, Town Tax Collector, and Finance Officer shall remain the same as therein specified.

(D)The Town Attorney shall approve all bonds required by this section with respect to their form and legality; and the premiums thereon shall be paid by the town. The Town Council shall approve all bonds required by this section with respect to their sufficiency. All bonds required by this section shall be in the custody of the Clerk. ('74 Code, ' 2-1)

***Statutory reference:***

*Fidelity bonds, see G.S. ' 159-29*

**'31.02 RIGHT OF ENTRY FOR INSPECTIONS.**

Whenever any officer or employee of the town is required or authorized by statute or the provisions of this code or other ordinances, in order to carry out his duties thereunder, to enter any premises or vehicle for the purpose of making an inspection thereof or anything therein contained, such officer or employee, upon proper identification, shall have the right to enter any such premises or vehicle in accordance with law and at any reasonable time in the execution of such duties. ('74 Code, ' 2-6)

**'31.03 AUTHORITY TO ADMINISTER OATHS, FALSE SWEARING.**

(A) The Mayor, the presiding officer of the Town Council or any committee thereof, the presiding officer of any board, commission, or other body of the town government, the Clerk, and each other officer, deputy, or assistant officer of the town to whom any sworn statement, whether oral or written, is required to be made or submitted by any person pursuant to any provision of this code or other ordinance or resolution of the Town Council shall have authority to administer the oath so required; provided, that nothing in this section shall be construed as purporting to authorize the administration of

any oath which by law is required to be administered by a judicial officer, notary public, or other officer authorized by statute to administer oaths, nor shall this section be construed as purporting to authorize the taking of any acknowledgment of any signature or seal for the purpose of recording in the office of the register of deeds or elsewhere other than in the office of the Clerk or some other office of this town.

(B) It shall be unlawful for any person to whom an oath has been administered pursuant to this section to knowingly make any false certificate, affidavit, or statement, oral or written, concerning any matter whatsoever in violation of such oath. (74 Code, ' 2-20)

#### **'31.04 AUTHORITY OF DEPUTIES AND ACTING OFFICERS.**

(A) Authority vested in and duties imposed upon town officers by state law, this code, or other town ordinances and resolutions may, when they so authorize, be exercised, or performed by their deputies, assistants, and other subordinates, to the extent not prohibited by state law, this code, or other town ordinance or resolution.

(B) When any town officer or employee is absent or disabled, or when any office or position in the town government is vacant, the person designated by competent authority to act in the place of such absent or disabled officer or employee or to hold temporarily the vacant office or position shall have the powers and perform the duties of such absent or disabled officer or employee or appertaining to such vacant office or position. ('74 Code, ' 2-5)

#### **'31.05 CONCURRENT OFFICEHOLDING.**

The Town Manager may designate any officer appointed by him to hold concurrently any two or more offices which are subject to his appointing authority. ('74 Code, ' 2-22)

### ***TOWN OFFICERS***

#### **'31.10 MAYOR.**

The Mayor shall be the official head of the town for all ceremonial purposes, and for the purpose of taking command of the police force of the town and calling upon the Governor for aid in times of emergency. He shall have the powers and perform the duties prescribed by state law for mayors of municipalities having the council-manager form of government and as prescribed in this code and other ordinances. ('74 Code, ' 2-23)

#### ***Statutory reference:***

*Mayor, see G.S. ' 160A-67 and 160A-69*

#### **' 31.11 MAYOR PRO TEMPORE.**

At each biennial organizational meeting, the 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 ill incapable of performing the duties of the office, the Council may by unanimous vote declare that he or she is incapacitated and confer any of his powers and duties on the Mayor Pro Tempore. Upon the Mayor's declaration that he or she is

no longer incapacitated, and with the concurrence of the majority of the Council, the Mayor shall resume the exercise of 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 chair to preside in such absence. (G.S. ' 160A-70)

#### **' 31.12 TOWN MANAGER.**

(A) The Town Council shall appoint a Town Manager to serve at its pleasure. The Town Manager shall be appointed solely on the basis of his executive and administrative qualifications. He need not be a resident of the town or state at the time of his appointment. The office of Town Manager is hereby *declared* to be an office that may be held concurrently with other appointive (but not elective) offices. (G.S. ' 160A-147)

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

(1) To 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 Town Council may adopt.

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

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

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

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

(6) To annually submit to the Town 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) To make any other reports that the Town Council may require concerning the operations of town departments, offices, and agencies subject to his direction and control.

(8) To perform any other duties that may be required or authorized by the Town Council. (G.S. ' 160A-148)

(9)

#### **'31.13 TOWN CLERK.**

The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Council, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Manager may direct.

##### ***Statutory reference:***

*Establishment of office of Town Clerk, see G.S. ' 160A-171*

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

*Establishment of office of Town Clerk, see Charter ' 5.2*

#### **'31.14 TOWN ATTORNEY; ASSISTANT TOWN ATTORNEY.**



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

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

(1) Prosecute and defend suits by or against the town and town officers and employees acting in line of duty.

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

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

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

(5) Draft all ordinances granting franchises.

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

(7) Perform such other professional services as may be agreed upon by and between the Attorney and the Town Council.

(C) The Town Council may authorize the Town Attorney, subject to approval of the Council to appoint an Assistant Town Attorney, to assist him as may be necessary and to act in the place of the Town Attorney when the Town Attorney is absent, disabled, or unavailable by reason of his professional duties. ('74 Code, ' 2-31) (Ord. passed 8-14-00) **Statutory reference:** *Town Attorney, see G.S. ' 160A-173*

#### **'31.15 TOWN TAX COLLECTOR.**

The Town Tax Collector shall collect all real and personal property taxes and all other taxes due the town; and, where no other town officer is designated by state law, this code, or other ordinance to collect fees, charges, and accounts due the town, he shall collect them. The Town Tax Collector shall pay over to the Clerk periodically, not less frequently than once each week as directed by the Finance Officer, all money collected by him, and he shall render to the Clerk a statement showing the source of each sum so collected and the purposes thereof. He shall issue a receipt to each person from whom he makes collection and shall keep accurate records of all collections in accordance with directives of the Finance Officer. The Town Tax Collector shall perform such other duties as may be imposed upon him by state law, this code, the Town Council, or the Town Manager. ('74 Code, ' 2-30) **Statutory reference:** *Town Tax Collector, see G.S. ' 105-349 et seq.* **Cross-reference:** *Town Tax Collector, see Charter ' 5.3*

#### **'31.16 FINANCE OFFICER.**

The Town Manager shall appoint the Finance Officer of the town and, as such, said Finance Officer shall have the powers and perform the duties prescribed for the office of municipal finance officer with reference to G.S. ' 159-24 and 159-25. ('74 Code, ' 2-29) (Am. Ord. 2015-14, passed 9-14-15) **Statutory reference:** *Finance Officer, see G.S. ' 159-24 and 159-25*

#### **'31.17 BUDGET OFFICER.**

The Town Manger shall serve as the Budget Officer. **Statutory reference:** *Budget officer, see G.S. '159-9*

**'31.18 CHIEF OF POLICE.**

For provisions concerning the Chief of Police, see ' 33.041.

**'31.19 CHIEF OF FIRE DEPARTMENT.**

For provisions concerning the Chief of the Fire Department, see ' 33.20.

**'31.20 ZONING ADMINISTRATOR.**

For provisions concerning the Zoning Administrator, see '153.160 through 153.162.

**CHAPTER 32: ELECTIONS**

**Section**

*32.01 Election of Councilmembers, Mayor; term*

**'32.01 ELECTION OF COUNCILMEMBERS, MAYOR; TERM.**

(A) *At each regular biennial town election there shall be elected from each of the three town wards two Councilpersons to serve as members of the Town Council. The candidates for Councilperson shall reside in the wards for which they are to be elected and shall be a qualified voter under the laws of the state. The six Councilpersons elected shall constitute the Town Council and shall hold office as provided by law.*

(B) *At each regular biennial town election, a Mayor shall be elected by popular vote of the town at large. ('74 Code, '7-2)*

(C) *The term of office of any Mayor or Councilmember elected at a regular biennial town election shall be for two years and until his successor is elected and qualified. ('74 Code, ' 7-4)*

(D) *The determination of results of elections for the offices of Mayor and Councilmembers shall be the nonpartisan plurality method, as set out in G.S. '163-292. ('74 Code, '7-3)  
(Ord. passed 8-14-00)*

## **CHAPTER 33: DEPARTMENTS, BOARDS AND COMMISSIONS**

### *Section*

#### ***Board of Adjustment***

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#### ***Fire Department***

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## **BOARD OF ADJUSTMENT**

### **'33.001 ESTABLISHMENT.**

For provisions concerning the Board of Adjustment, see '153.175 through 153.182.

## **FIRE DEPARTMENT**

### **'33.020 FIRE CHIEF; APPOINTMENT; POWERS AND DUTIES.**

- (A) The Chief of the Fire Department shall be nominated by the members of the Fire Department, subject to confirmation by the Town Council.
- (B) Subject to the general control and supervision of the Town Manager, the Chief of the Fire Department shall have direct control and supervision of the Fire Department and the personnel and equipment thereof, including the fire alarm system. ('74 Code, ' 8-44)
- (C) It shall be the duty of the Chief of the Fire Department to:
  - (1) Proceed immediately to the scene of each fire and supervise and direct the extinguishing thereof.
  - (2) Preserve and safely keep all equipment of the Fire Department in readiness for immediate use.
  - (3) Compel, when necessary, all officers of the town or other persons to aid in the extinguishing of fires.
  - (4) Enforce all provisions of this code and other ordinances relative to fire prevention and the extinguishing of fires.
  - (5) Perform the duties assigned by state law to the chiefs of municipal fire departments and to municipal fire inspectors.
  - (6) Inspect periodically, not less frequently than once each month, all equipment of the Fire Department and report all needed repairs and replacements to the Town Council.
  - (7) Report all violations of any fire prevention ordinance.

- (8) Annually report to the Town Council the names, residences, and occupations of all firefighters, the number and locality of fires which have occurred during the year, the causes thereof if they can be ascertained, name of the owner and value of the property destroyed, insurance coverage, and such other matters pertaining to the Fire Department, its organization, and operation as he deems appropriate.
- (9) Do such other and further things necessary for the proper and efficient operation of the Fire Department and for the prevention and extinguishment of fires.  
( '74 Code, ' 8-45)

**'33.021 ASSISTANT CHIEF.**

In the absence or disability of the Chief of the Fire Department, the Assistant Fire Chief shall perform all duties required of the Fire Chief and shall be clothed with the same authority as the Fire Chief. ( '74 Code, ' 8-49)

**'33.022 CHAIN OF COMMAND.**

Authority within the Fire Department shall flow from the Chief of the Fire Department through the Assistant Chief and other officers and firefighters downward in order of rank and seniority within rank; and subordinates shall have the powers and perform the duties of their immediate superiors when such superiors are absent or disabled. Each member of the Fire Department shall obey all lawful orders of his superiors in the chain of command.  
( '74 Code, ' 8-50)

**'33.023 RULES AND REGULATIONS.**

The Town Manager, in consultation with the Chief of the Fire Department, shall prepare rules and regulations for the government of the Fire Department and the personnel thereof. Such rules and regulations, which may be amended from time to time, shall be submitted to the Town Council for approval. It shall be unlawful for any member of the Fire Department to violate any rule or regulation which has been approved by resolution of the Town Council and placed on file in the office of the Clerk. A copy of all approved rules and regulations shall also be placed on file at Fire Department headquarters. ( '74 Code, ' 8-55)

**'33.024 FIRE DEPARTMENT PREMISES.**

- (A) No person, except town officers or members in good standing of the Fire Department, shall enter the premises of the Fire Department unless authorized to do so by authority of the Town Manager or the Chief of the Fire Department. ( '74 Code, ' 8-5)
- (B) The premises of the Fire Department and all entranceways thereto shall be kept free of vehicles, boats, and other items of property not belonging to the Fire Department; and all property of the Fire Department shall be stored or parked at such places approved therefor by the Chief of the Fire Department. ( '74 Code, ' 8-3) Penalty, see ' 10.99.

**' 33.025 VOLUNTEER MEMBERS; CONSTITUTION AND BYLAWS; COMPENSATION.**

- (A) The constitution and bylaws applicable to volunteer members of the Fire Department shall be consistent with state law, this code, and other ordinances and the rules and regulations of the Fire Department, and provision shall be made for election of officers at the annual meeting in each year and for the holding of at least one practice drill per month, with the names of those participating to be reported monthly to the Chief of the Fire Department. Such constitution and bylaws and all amendments thereto shall be approved by the Town Council by resolution or motion and filed in the office of the Clerk before taking effect. A copy of such approved constitution and bylaws shall also be on file in the office of the Chief of the Fire Department. ('74 Code, ' 8-54)
- (B) Volunteer firefighters shall be paid for their attendance at all fires within the corporate limits at such rate, not less than \$1 per hour for the first hour and \$.50 per hour for each additional hour, as shall from time to time be provided by the Town Council, whether or not hose connections are made or chemicals used for extinguishing the fire. All firefighters attending fires shall return to the fire house and answer roll call after the fire is extinguished. ('74 Code, ' 8-53)

**' 33.026 PARTICIPATION IN STATE VOLUNTEER FIRE DEPARTMENT; FIRE SERVICE BEYOND TOWN.**

- (A) Pursuant to the provisions of G.S. ' 58-80-15, the Town Council hereby resolves to accept and endorse the provisions of G.S. " 58-80-5 - 58-80-60, thus making the town a participant in the State Volunteer Fire Department.
- (B) As required by G.S. ' 58-80-25, the Town Council hereby designates the Chief of the Fire Department to have the authority to grant or deny permission for firefighters and apparatus to leave the town in all cases where request is made for assistance beyond the corporate limits of the town; and in the absence, disability, or unavailability of the Chief of the Fire Department, the Assistant Chief of the Fire Department is hereby designated for such purpose; and in the absence, disability, or unavailability of the Assistant Chief, the Town Manager is hereby designated for such purpose.
- (C) It shall be the duty of the Chief of the Fire Department, or if he is absent or disabled, the acting chief of the Fire Department, to keep the office of the State Commissioner of Insurance and the office of the Secretary of the State Firefighter's Association currently informed as to the name, address, and telephone number of each of the persons designated in division (B) to have authority to grant or deny permission for firefighters and apparatus to leave the town.
- (D) In the event of a conflagration beyond the capability of the Town Fire Department to bring under control and prevent the spread thereof to other property so as to endanger a considerable segment of the town, the ranking officer of the Fire Department who is then in command shall forthwith cause to be called upon for assistance such other fire departments

of the State Volunteer Fire Department as in his judgment may be required to control and extinguish the conflagration. ('74 Code, ' 8-56)

### **PLANNING BOARD**

#### **' 33.035 ESTABLISHMENT: DUTIES.**

For provisions concerning the Planning Board, see ' 153.193 et seq.

### **POLICE DEPARTMENT**

#### **' 33.040 COMPOSITION; ORGANIZATION.**

(A) The Police Department shall consist of such regular, auxiliary, and special members and such quarters, vehicles, equipment, and other property as may from time to time be authorized by the Town Council.

(B) The organization of the Police Department shall be as provided by regulations adopted pursuant to

' 33.044. ('74 Code, ' 18-1)

#### ***Statutory reference:***

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

#### **'33.041 CHIEF OF POLICE; DUTIES.**

The Chief of Police shall be the commanding officer of the Police Department. He shall be responsible for the administration, training, discipline, and morale of the members of the Police Department and for their efficient and effective employment in the enforcement within the town of state law, this code, and other ordinances; for the preservation of the public peace and safety; for the prevention and suppression of crime; and for the apprehension of violators of the law. The Chief of Police shall be responsible for the maintenance and use of all property and apparatus of the Police Department; he shall cause all required investigations to be made and all required reports to be rendered; and he shall have such powers and perform such duties as may be prescribed by state law for his office and by this code and other ordinances and resolutions of the Town Council. ('74 Code, ' 18-2)

#### **'33.042 CHAIN OF COMMAND.**

(A) The Chief of Police, under the general supervision of the Town Manager, shall have direct control of the members and property of the Police Department and shall be in command of the members. Members of the Police Department shall assume command in order of rank, as prescribed in departmental rules and regulations. ('74 Code, ' 18-1)

(B) Each member of the Police Department shall be obedient to the orders of his superiors in the chain of command.

(C) The chain of command shall descend from the Chief of Police in order of rank and seniority within rank; and in the absence or disability of any member of the Police Department the next ranking member of the Police Department then and there present and able shall assume the powers and duties of such absent or disabled member. ('74 Code, ' 18-3)

### **'33.043 OATH OF OFFICE.**

Each person appointed or employed as Chief of Police, police officer, or auxiliary police officer shall take and subscribe before some person authorized by law to administer oaths the oath of office required by Article VI, Section 7 of the State Constitution. The oath shall be filed with the Town Clerk. (G.S. ' 160A-284)

### **'33.044 EXTRATERRITORIAL JURISDICTION.**

In addition to their authority within the corporate limits, town police officers shall have all the powers invested in law enforcement officers by statute or common law within one mile of the corporate limits of the town, and on all property owned by or leased to the town, wherever located. Any officer pursuing an offender outside the corporate limits or extraterritorial jurisdiction of the town shall be entitled to all of the privileges, immunities, and benefits to which he would be entitled if acting within the town, including coverage under workmen's compensation laws. (G.S. ' 160A-286)

### **' 33.045 DUTIES OF POLICE OFFICERS.**

It shall be the duty of the police officers to:

- (A) Preserve public peace, prevent crimes, detect and arrest offenders, suppress riots and unlawful gatherings, and prevent the obstruction of free passage upon or within public streets, sidewalks, parks, and public places.
- (B) Protect the rights of persons and property.
- (C) Guard the public health.
- (D) Preserve order at elections and all public meetings and assemblages.
- (E) Regulate the movements of vehicles and pedestrians in the streets, bridges, parks, public squares, and highways.
- (F) Provide proper police attendance at fires.
- (G) Carefully observe and inspect all places of public amusement, all places of business having license to carry on such business and suppress and restrain all unlawful and disorderly conduct or practices therein.
- (H) Enforce penalties for the violation of laws and ordinances in the town.
- (I) Arrest or, when so authorized, serve summons or notice of violation upon all persons guilty of violating any law or ordinance.
- (J) Prevent any damage to town property, buildings, streets, and sidewalks.
- (K) Report to the Chief of Police any repairs needed to any public property.
- (L) Serve all processes issued to them.
- (M) Summon as many persons as may be necessary to assist them in the duties herein outlined.
- (N) Perform any and all other duties that may be assigned to them by the Town Council, the Town Manager, or the Chief of Police. ('74 Code, ' 18-5)

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



### **'33.046 RULES AND REGULATIONS.**

The Town Manager, in consultation with the Chief of Police, shall prepare rules and regulations for the government of the Police Department and the personnel thereof Such rules and regulations, which may be amended from time to time, shall be submitted to the Town Council for approval. It shall be unlawful for any member of the Police Department to violate any such rule or regulation which has been approved by resolution of the Town Council and placed on file in the office of the Clerk. A copy of all such approved rules and regulations shall also be placed on file at Police Department headquarters. ('74 Code, ' 18-8)

### **' 33.047 ARREST PROCEDURE.**

Upon the arrest of a person, with or without a warrant, but not necessarily in the order hereinafter listed, a police officer:

(A) Must inform the person arrested of the charge against him or the cause for his arrest.

(B) Must, with respect to any person arrested without a warrant and, for purpose of setting bail, with respect to any person arrested upon a warrant or order for arrest, take the person arrested before a judicial official without unnecessary delay.

(C) May, prior to taking the person before a judicial official, take the person arrested to some other place if the person so requests.

(D) May, prior to taking the person before a judicial official, take the person arrested to some other place if such action is reasonably necessary for the purpose of having that person identified.

(E) Must without unnecessary delay advise the person arrested of his right to communicate with counsel and friends and must allow him reasonable time and reasonable opportunity to do so.

(F) Must make available to the state on a timely basis all materials and information acquired in the course of all felony investigations. This responsibility is a continuing affirmative duty. (G.S. ' 15A-501)

### **' 33.048 AUXILIARY POLICE.**

The Town Manager shall have power, when he deems it advisable, to employ as many Auxiliary Police

officers as are necessary to preserve peace; and he shall report each action taken by him pursuant to this section to the Town Council at its next regular meeting. ('74 Code, ' 18-7)

#### ***Statutory reference:***

*Auxiliary Police, see G.S. ' 160A-282*

### **'33.049 UNIFORMS.**

(A) The Chief of Police and other police officers shall when on duty wear such uniforms as shall be prescribed by the Town Council and shall keep them in a neat condition; and upon discharge, resignation, or dismissal, shall surrender such uniforms which have been purchased by the town for their use. However, any member of the police force designated or employed for emergency, limited, or special duty, or anyone working generally as a detective or doing detective work, need not be clad in a uniform unless specially directed by the Chief of Police to wear a uniform.

(B) It shall be the duty of the Chief of Police to see that the members of the police force present a neat and respectable appearance. ('74 Code, ' 18-4)

### **' 33.050 AUTHORITY TO ENFORCE TRESPASSING REGULATIONS.**

The Police Department is authorized to act as agents for property owners and tenants to enforce regulations against trespassing on private property located within the corporate limits of the town, upon specific request by such property owners or tenants (Ord. 96-3, passed 4-8-96)

### ***HUMAN RELATIONS COMMISSION***

#### **' 33.70 FINDING OF DESIRABILITY OF HUMAN RELATIONS COMMISSION.**

The town hereby finds and declares that it is desirable that a Human Relations Commission be established and maintained in the town. (Ord. 91-8, passed 10-28-91)

#### **' 33.71 ESTABLISHMENT OF HUMAN RELATIONS COMMISSION DUTIES.**

There is hereby established a Commission to be known as the Plymouth Human Relations Commission. It shall be the duty of the Commission in general:

(A) To encourage understanding and good will between all citizens regardless of race, sex, religion, creed, nationality, or economic status, and thus promote the general welfare of our town.

(B) To report to and to recommend to the Town Council measures designed to promote the welfare of the community.

(C) To identify concerns within the community which could jeopardize the welfare of our town;

(D) To act as an impartial public forum to the end that there will be better communications between all segments of our town.

(E) To promote peace, understanding, respect, good will and harmony among all citizens. (Ord. 91-8, passed 10-28-91)

#### **' 33.72 AUTHORITY OF HUMAN RELATIONS COMMISSION.**

(A) The Plymouth Human Relations Commission may promote public interest in its recommendations in such a manner as to lessen any tensions and promote good will among all citizens.

(B) The Commission may sponsor meetings or forums intended to lead all citizens to a clearer understanding of the true meaning of responsible citizenship in our town, of the obligations inherent in being a good citizen, and of the need for mutual understanding and respect by all citizens for each other.

(C) The Commission shall have the authority to create and devise plans for recommendations to the Town Council.

(D) The Commission shall receive funding, if any is required, from the town.  
(Ord. 91-8, passed 10-28-91)

#### **' 33.73 MEMBERSHIP; TERMS OF OFFICE.**

The Commission shall consist of 11 members. The members will be appointed by the Town Council. While representation of all of the various segments of the community is not required, diversity of membership is desirable. For the first Commission the appointed members will serve two- year terms beginning on the date of the adoption of this subchapter. Thereafter, members will be appointed for three-year terms. In the event any members shall fail to attend three consecutive meetings (without just cause), the same shall constitute an involuntary resignation by said member. The Commission shall promptly notify the Town Council of all resignations (whether voluntary or involuntary) and other vacancies on the Commission, and such vacancy shall be filled for the unexpired term by the Town Council. No person shall serve more than two three-year consecutive terms. Notwithstanding any of

the language set out above, all members shall serve at the pleasure of the Town Council. Members of the Commission shall receive no compensation for their services. (Ord. 91-8, passed 10-28-91)

**' 33.74 ORGANIZATION; OFFICERS; BY-LAWS; MEETING; QUORIJM; VOTES.**

- (A) The Commission shall meet for the purpose of organization as soon as reasonably possible after its creation. The Commission shall elect its own officers, which shall include a chairman, a vice-chairman, and a secretary, and shall propose by-laws for the transaction of its business subject to approval of such by-laws by the Town Council. A copy of by-laws shall be filed with the Clerk of the Town Council for inspection by interest parties and shall constitute public records.
- (B) The Commission shall hold meetings as provided by the by-laws, or when called by the chairman, vice-chairman or any three members of the Commission at any time upon 12 hours written or telephone notice to all of its members. All meetings shall be open to the general public except those authorized by law to be in executive session (e.g., those considering action necessary to deal with riot or civil disorder or with conditions that indicate a riot or civil disorder is eminent). It shall keep minutes of its meetings, in which shall be recorded all action taken in its public meetings that it considers. Such minutes shall be public records. The Commission can invite and receive suggestions from the public concerning any and all matters within the scope of its duties.
- (C) A quorum shall consist of a majority of the members of the Commission. No proxies shall be allowed. (Ord. 91-8, passed 10-28-91)

**'33.75 REPORTS.**

The Commission shall cause a comprehensive annual report to be prepared describing the objectives, programs, activities and accomplishments of the Commission. This report shall be prepared as of June 30 of each year for the previous year and shall be submitted to the Town Council by September 1 of each year. The form and content of the report shall be determined by the Commission, subject to the right of the Town Council at any time to require a report containing any information on any subject in any format it may reasonably designate. Special reports and recommendations can be made to (or requested by) the Town Council as the need arises in the judgement of the Commission or at the specific request of the Town Council. (Ord. 91-8, passed 10-28-91)

## CHAPTER 34: PERSONNEL POLICY

### Section

#### General Provisions

34.01 Compensation of Mayor, Councilmembers and the like and fees

#### Affirmative Action

- 34.10 Purpose
- 34.11 Policy
- 34.12 Application
- 34.13 Administration of program
- 34.14 Recruitment
- 34.15 Utilization of minorities

#### Residency Requirements

- 34.20 Purpose
- 34.21 Residency requirements
- 34.22 Candidates for employment
- 34.23 Applicability

### GENERAL PROVISIONS

#### '34.01 COMPENSATION OF MAYOR, COUNCILMEMBERS, AND THE LIKE AND FEES.

(A) The Mayor, Councilmembers, Town Manager, and all other town officers and employees shall receive such compensation for their services as may from time to time be provided in the annual budget or other ordinances; provided, that the compensation of the Town Manager shall be as agreed upon by and between the Town Council and the Town Manager.

B) All fees paid to town officers and employees for services rendered in the line of duty shall belong to the town and shall be turned over by the recipients thereof to the Clerk not less frequently than once each week, as directed by the Town Manager. ('74 Code, ' 2-3)

#### **Statutory reference:**

*Compensation of Mayor and Council, see G.S. ' 160A-64*

*Compensation of town employees, see G.S. ' 160A-162*

## **AFFIRMATIVE ACTION**

### **' 34.10 PURPOSE.**

The purpose of this subchapter shall be to establish the town's policy regarding equal employment opportunity. (Ord. passed 7-10-78)

### **' 34.11 POLICY.**

- (A) It shall be the continuing policy of the town that there shall be no discrimination in the treatment of minority group job applicants or employees in the application of any town policy, practice, rule, or regulation. All applicants and employees, regardless of race, creed, color, sex, marital status, age, national origin, or political affiliation, shall be treated on the same basis with respect to employment, performance rating, promotion, training courses, and all other town or town-sponsored activities.
- (B) Affirmative action may be defined as specific and individual programs designed to increase the utilization of minorities at all levels and all segments of the work force. The town will take such affirmative action as needed to effectuate this goal. (Ord. passed 7-10-78)

### **34.12 APPLICATION.**

This subchapter shall apply to all segments of the town government. (Ord. passed 7-10-78)

### **' 34.13 ADMINISTRATION OF PROGRAM.**

- (A) Coordinator for the town in matters pertaining to equal employment opportunity shall be the Town Manager or his designate. His duties will be to coordinate the efforts of all segments of the town government. He shall regularly report to the Town Council concerning progress of the program, with recommendations where appropriate.
- (B) Administration of the program shall be the responsibility of the Town Manager, or his designate, as the town Equal Employment Opportunity Coordinator. He has the support of the Town Council. He and his staff are responsible for:
  - (1) Implementing policy, affirmative action programs, and internal and external communication techniques.
  - (2) Assisting department heads in arriving at solutions to problems.
  - (3) Periodically auditing hiring and promotion patterns to ensure that goals and objectives are met and reported to the Town Council.
  - (4) Assisting in the identification of problem areas.

(5) Quarterly auditing to insure that:

- (a) Posters are properly displayed.
- (b) All facilities are, in fact, desegregated.
- (c) Minority employees have the opportunity to participate in all town-sponsored activities.

(6) Conducting regular discussions with department heads, supervisors, and employees to ensure that town policy is being followed and measure effectiveness of town programs, indicate the need for remedial action, and determine the degree to which goals and objectives have been attained.

(7) Keeping town management informed of the latest developments in the entire equal opportunity area.

(8) Serving as liaison between the town and enforcement agencies, minority organizations, and community action groups. (Ord. passed 7-10-78)

**' 34.14 RECRUITMENT.**

- (A) The town shall seek qualified minority group applicants for all job categories and shall make particular efforts to increase minority group representation in occupations at the higher levels of skill and responsibility. Decisions on employment shall be based solely upon an individual's qualifications for the position being filled.
- (B) To increase the flow of minority applicants, the following shall be pursued
  - (1) Contacts shall be made with organizations representing minority applicants.
  - (2) Schools attended by substantial numbers of minority group members shall be contacted for job referral.
  - (3 ) Minority employees shall be actively encouraged to refer applicants.
- (C) A copy of the town's employment policy shall be available to each employee. Communication media, including bulletin boards and orientation of new employees shall emphasize this subject. All management personnel and any others involved in administering this policy, including those engaged in recruiting, employment, training, and other personnel activities shall be aware of the policy and of their responsibility with respect to it.

- (B) All external recruitment sources shall be informed verbally and confirmed in writing of the town's policy, stipulating that such sources actively recruit and refer minorities for all positions listed. The town will include appropriate equal opportunity clauses in all external documents such as purchase orders, leases, and contracts. The town will endeavor to publicize its program in various news media and will include the phrase "equal opportunity employer" in all advertisements for employment.
- (E) Supervisors shall be directed to contact the Equal Employment Opportunity Coordinator for advice and counsel to ensure that all employees are given proper consideration for promotions, upgradings, transfers, and other personnel actions. (Ord. passed 7-10-78)

**' 34.15 UTILIZATION OF MINORITIES.**

- (A) If minorities are found underutilized in any job category, a good faith effort will be made to increase the percentage of minorities in that job category. This effort of utilization of minorities will be based on availability of minorities, skills required, a forecast of replacement turnover, and a forecast of increase in the work force during the period involved. Necessary remedial job training programs will be recommended for employees who require additional qualification.
- (B) Active encouragement shall be given to minority group employees to improve their skills and job potential. Promotion, upgrading, and transfer activities will be monitored to ensure that full consideration is given to qualified minority group employees. The town will continue to make layoffs, terminations, downgradings, and recalls from layoff without regard to race, color, religion, age, sex, marital status, national origin, or political affiliation. The town will continue to ensure that there is no disparity in the compensation received by minority group employees and other employees for performing equivalent duties, and that opportunities for performing overtime work or otherwise earning increased compensation are afforded to all employees without discrimination. (Ord. passed 7-10-78)

***RESIDENCY REQUIREMENTS***

**' 34.20 PURPOSE.**

The Town Council hereby establishes residency requirements for its employees. The rational purposes for these residency requirements include, but are not limited to, the following:

- (A) Enhancement of the quality of employee performance by greater personal knowledge of employee responsibilities and existing town conditions.
- (B) Ready availability in emergency situations.
- (C) Contribution to the town tax base.
- (D) Involvement and participation in the town's community.
- (E) Reduction in absenteeism and tardiness; and

- (F) General economic benefits flowing from local expenditure of salaries.  
(Ord. 05-01, passed 12-13-04)

**' 34.21 RESIDENCY REQUIREMENTS.**

The following requirements shall apply to town employees as identified hereafter:

(A) Any employee hereafter appointed, hired or promoted into the position of Town Manager or Department Head will be required to reside permanently in the town limits within 180 days of their appointment, hiring or promotion to such position.

(B) Anyone holding the position of Town Manager or Department Head and who resided outside the town limits prior to the enactment of this section may continue to reside outside the town limits for so long as they may hold such position and continue to reside at the same address.

(Ord. 05-01, passed 12-13-04)

**'34.22 CANDIDATES FOR EMPLOYMENT.**

Candidates for employment shall be recruited from a geographic area as wide as necessary to ensure the recruitment of well-qualified applicants. Employment, therefore, shall not necessarily be limited to residents of the town. However, in cases where residents and non-residents are equally qualified for particular vacant positions, the resident may receive first consideration in filling such vacancies. (Ord. 05-01, passed 12-13-04)

**'34.23 APPLICABILITY.**

(A) The provisions of this subchapter shall apply to all employees employed, re-employed, or promoted on or after December 13, 2004.

(B) Any violation of the provisions contained herein shall constitute grounds for termination.  
(Ord. 05-01, passed 12-13-04)



## CHAPTER 35: FINANCE

### Section

#### *General Provisions*

- 35.01 Fiscal year
- 35.03 Inventory of town real property

#### *Taxation*

- 35.10 Late payment; penalties
- 35.11 Partial payment of tax
- 35.12 Apportionment and release of tax lien
- 35.13 Property sold for taxes

### **GENERAL PROVISIONS**

#### **' 35.01 FISCAL YEAR.**

The fiscal year for the town government shall begin on July 1 of each calendar year and shall terminate with the expiration of the next succeeding June 30. ('74 Code, ' 9-1)

#### **' 35.02 INVENTORY OF TOWN REAL PROPERTY.**

The Clerk shall maintain on file in his office an inventory of all real property owned by or leased to the town. This inventory shall be maintained in current status, and during January of each year shall be revised, as may be appropriate, to show changes in value due to depreciation or to repairs, renovations, and the like. For each building or lot such inventory shall also show a brief description; a reference to the deed, devise, lease, or other instrument whereby the town acquired title to or the use thereof; the department, office, or agency charged with custody; the purpose or use; the insurance of all types thereon, together with notes as to premiums payable and anniversary dates; and for property owned by the town and leased to other persons, copies of such leases and appropriate notes as to the revenues derived therefrom.

('74 Code, ' 2-21)

### **TAXATION**

#### **' 35.10 LATE PAYMENT; PENALTIES.**

(A) Taxes which are the subject of ' 35.10, if paid:

(1) On or after January 1 and before February 1 next after due and payable, there shall be added to the tax a penalty of 2%.

(2) On and after February 1 following the due date there shall be added to the tax, in addition to the 2% provided in division (1), interest at the rate of 3/4% per month or fraction thereof until the tax plus penalties and interest have been paid. ('74 Code, ' 9-3)

(B) All legal costs, fees, and other expenses incurred in connection with necessary legal work or proceedings to collect delinquent taxes shall be assessed against the delinquent party. ('74 Code, ' 9-7)

#### **' 35.11 PARTIAL PAYMENT OF TAX.**

Any taxpayer may make a partial payment on the total tax levied by the Town Council against his property and thereafter be relieved of penalties or interest to the extent of such payment, but no

release of an individual parcel of real property from tax lien of the town shall be granted upon a partial payment made by the party in whose name the property was listed for taxes. ('74 Code, ' 9-4)

**' 35.12 APPORTIONMENT AND RELEASE OF TAX LIEN.**

In order to avoid undue hardship, the Town Tax Collector may release a particular tract or parcel of real estate from the tax lien of the town when a change in the ownership of such property occurred since the listing date for the year proposed to be paid upon payment by the owner of such property of the tax against the property and upon the payment of all unpaid personal property tax against the party in whose name such property was listed. The party paying the personal property tax of another shall be subrogated to the rights of the town with respect to such tax, and the Town Tax Collector shall assign to such party all rights of the town with respect to such item of personal tax. ('74 Code, ' 9-5)

**' 35.13 PROPERTY SOLD FOR TAXES.**

The rules stated in ' 35.12 and 35.13 shall apply in cases where property has been sold for taxes and the town is the holder of the certificate of sale; provided, that no suit has been instituted to foreclose such certificate; and provided, further, that the first applicant for a release in accordance with the provisions of ' 35.13 shall pay the cost of advertising, selling, and issuing of the certificate of sale. ('74 Code, ' 9-6)

## CHAPTER 36: TOWN POLICY

### Section

36.01 Smoking in municipal buildings

36.02 Signs prohibiting concealed handguns on municipal property

#### ' 36.01 SMOKING IN MUNICIPAL BUILDINGS.

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

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

(B) *Smoking Regulated in Municipal Buildings.* It shall be unlawful for any person to smoke in any building or facility, or portion of a building or facility now or hereafter owned, leased, operated, occupied, managed or controlled by the town, except in specially designated smoking areas. The Town Manager shall have the authority to designate smoking areas within each municipal building or facility. Twenty percent of an area within any building or facility may be designated as a smoking area.

(Ord. 93-2, passed 10-11-93)

#### ' 36.02 SIGNS PROHIBITING CONCEALED HANDGUNS ON MUNICIPAL PROPERTY.

(A) *Posting of Signs Required.* The Town Manager is authorized to post appropriate signage on each park, building or portion of a building now or hereafter owned, leased as lessee, operated, occupied, managed or controlled by the town, as well as the appurtenant premises to such buildings, indicating that concealed handguns are prohibited therein.

(B) *Location of Signs.* The signs shall be visibly posted on the exterior of each entrance by which the general public can access the building, appurtenant premises, or park. The Town Manager shall exercise discretion in determining the necessity and appropriate location for other signs posted on the interior of the building, appurtenant premise, or park.

(Ord. 96-2, passed 1-8-96)