

## **CHAPTER 2: ADMINISTRATION**

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***DIVISION 2 MEETINGS***

**§ 2-36 REQUIRED; MAYOR OR MAYOR PRO TEMPORE TO PRESIDE.**

The City Council shall meet to conduct its business at either regular or special sessions in accordance with the requirements of the Charter. The Mayor shall preside at all meetings. The Mayor Pro Tempore shall perform the duties of the Mayor in his absence.  
(’89 Code, § 2-36)

**§ 2-37 RULES OF PROCEDURE.**

The rules of procedure for Council meetings shall be as follows:

- (A) Any question discussed at a previous meeting upon which no action was taken or decision made may be taken up at any time during any regular meeting at the request of a majority of the members present.
- (B) No motion shall be considered for a vote until it has been seconded.

**Eden - Administration**

(C) When a motion has been made and seconded regarding a question under discussion, only the following motions shall be acceptable and they shall have precedence in the order named:

- (1) To table;
- (2) To postpone to a definite date;
- (3) To postpone indefinitely;
- (4) To refer to committee;
- (5) To amend;
- (6) To strike out an insert.

(D) A motion to adjourn is always in order and shall be decided without debate.

(E) The ayes and nays shall be called for when voting on any question, and the question may be called for by a majority of the members present at any time.

(F) Except as otherwise provided in this chapter, the procedure of the City Council shall be governed by the latest edition of *Robert's Rules of Order, Newly Revised*.  
(89 Code, § 2-37)

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***DIVISION 1 GENERALLY***

**§ 2-56 SCOPE OF PLANNING.**

Every action and program of every component of the City of Eden involves planning in a broad sense of the term. For purposes of this article, the term is restricted to activities and programs involving physical, economic and social development of the city.  
(Ord. passed 3-17-92)

**§ 2-57 PLANNING AGENCIES.**

The following boards, committees, commissions and departments noted herein are designated as planning agencies and are assigned responsibilities under this article: the City Council, the Planning Board, the Planning and Inspections Department, the Board of Adjustment, the Historic Preservation Commission, the Community Appearance Commission and the Tree Board.  
(Ord. passed 3-17-92; Am. Ord. passed 5-17-94; Am. Ord. passed 6-20-95; Am. Ord. passed 3-16-99)

**§ 2-58 NOMINATION AND APPOINTMENT POLICY.**

The intent of this nomination and appointment policy is not to restrict or limit the appointment of qualified people to the various boards and commissions that comprise the city planning organization. Rather, the intent is to aid the City Council in the location, selection and appointment of qualified people and to provide a structure in which each Council member and the Mayor has the opportunity to make a nomination to each board and commission. It is only for this purpose that this policy is drafted.

(A) Each member of the City Council shall have the opportunity to make one nomination to each board and commission that comprises the planning organization in accordance with the membership requirements of the applicable board or commission. (i.e., Planning Board, Board of Adjustment, Historic Preservation Commission, Community Appearance Commission and Tree Board).

(B) The Mayor shall have the opportunity to make one nomination to each board and commission that comprises the planning organization in accordance with the membership requirements of the applicable board or commission.

(C) With the exception of the Planning Board and the Board of Adjustment, nominations are not limited to the ward of the nominator and a City Council member and the Mayor may nominate a person that resides in the planning and zoning jurisdiction of the city.

(D) As required by ordinance, the Planning Board shall be composed of one member from each ward and one member chosen at large from the planning and zoning jurisdiction. Each City Council member shall have the opportunity to nominate one person from his or her ward to the Planning Board and the Mayor shall have the opportunity to nominate one person from the planning and zoning jurisdiction.

(E) As required by the zoning ordinance, the Board of Adjustment shall be composed of seven members chosen at large from the city and one member chosen at large from the planning and zoning jurisdiction. Each City Council member shall have the opportunity to nominate one person from the city and the Mayor shall have the opportunity to nominate one person from the planning and zoning jurisdiction.

(F) The City Council shall nominate two members to the Planning Board and two members to the Board of Adjustment from the extraterritorial jurisdiction. Extraterritorial jurisdiction members shall be appointed by the County Commissioners in accordance with applicable ordinance requirements and state law.

(G) All appointments to the boards and commissions, except those appointed by the County Commissioners, shall be approved by the City Council as required by ordinance.

(H) Beginning in 1992, the staff will supply attendance and performance reports of all boards and commissions in September of each year.

(I) A public awareness program shall be instituted making the public more aware of the board's and commission's duties and responsibilities and of the opportunity for appointment to the various boards and commissions. An application process shall be part of the program and shall serve as a source of information for possible future appointments. The application process shall in no way limit or restrict the nomination and appointment process.

(J) Guidelines outlining the qualities needed in an appointee for a particular board or commission shall be prepared by staff and made available to the City Council and the Mayor.

(K) An effort shall be made to appoint persons to the boards and commissions such that the makeup of each board and commission will more closely reflect the demographics of the city and the needs and interests of that particular board or commission. (See guidelines as referenced above).  
(Ord. passed 3-17-92)

***DIVISION 2 CITY COUNCIL***

**§ 2-61 GENERAL POWERS AND DUTIES.**

The City Council, as the governing body of the city, acts in its legislative capacity when it adopts ordinances and amendments; appropriates funds; approves acquisition, construction, and disposition of public facilities; and oversees administration of the city. In its quasi-judicial or administrative capacity it issues special-use permits under the zoning ordinance.

(Ord. passed 3-17-92)

***Statutory reference:***

*Municipal authority, see G.S. § 160A-381*

***DIVISION 3 PLANNING BOARD***

**§ 2-66 CREATED.**

The City of Eden Planning Board is hereby created pursuant to G.S. Chapter 160A-361 and the provisions of this article.

(Ord. passed 3-17-92)

**§ 2-67 MEMBERSHIP AND VACANCIES.**

(A) The Planning Board shall consist of ten members. Seven members shall be citizens and residents of the city and shall be appointed by the City Council which shall appoint one member from each ward. Two members shall be citizens and residents of the extraterritorial area described in an ordinance adopted November 21, 1978, pursuant to G.S. § 160A-362, and shall be appointed by the County Board of Commissioners in accordance with G.S. § 160A-362. One member shall be nominated by the Mayor and shall be appointed at large from the planning and zoning jurisdiction of the city by the City Council. If despite good faith efforts, residents of the extraterritorial area cannot be found to fill the seats reserved for extraterritorial residents, then the County Board of Commissioners may appoint other residents of the county (including residents of the City of Eden) to fill these seats. If the County Board of Commissioners fails to make these appointments within 90 days after receiving a resolution from the City Council requesting that they be made, then the City Council may make the appointments. Extraterritorial members shall have equal rights, privileges, and duties with the other members of the Board and may vote on all matters coming before the Board.

(B) The members shall be appointed for terms of three years, with the exception of the initial ten members. Four of the initial members shall be appointed for a term of one year; three for two years; and three for three years. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. If a city member moves outside the city, or if an extraterritorial member moves outside the planning and zoning jurisdiction, that shall constitute a resignation from the Board effective upon the date a replacement is appointed.

(Ord. passed 3-17-92)

### **§ 2-68 ABSENCE AND ATTENDANCE.**

It shall be the duty of all Planning Board members to inform the administrative assistant of the Board of any anticipated absence and notification shall be immediately after receipt of the agenda. A member who misses three consecutive meetings or more than 30% of the meetings in a calendar year loses his status as a member of the Board until reappointed or replaced by the governing body of his respective unit. Absences due to sickness, death or other emergencies of like nature shall be regarded as proved absences and shall not affect the member's status on the Board; except, that in the event of a long illness or other such case for prolonged absence the member may be replaced.

(Ord. passed 3-17-92; Am. Ord. passed 5-17-94)

### **§ 2-69 RULES OF CONDUCT FOR MEMBERS.**

Members of the Planning Board may be removed for cause by the City Council, including violation of the rules stated below.

(A) Faithful attendance at all Board meetings and conscientious performance of the duties required of Board members shall be considered a prerequisite of continuing membership on the Board.

(B) Each member of the Board shall be familiar with all statutes, laws, ordinances and rules of procedure relating to the Board as time and circumstances permit.

(C) It shall be the duty of every Board member to avoid even the appearance of conflict of interest. Therefore, no member shall vote on, discuss, debate, advocate, influence, or otherwise participate before the Board in any matter that would substantially affect, directly or indirectly, his or her personal financial interests or the financial interests of a member of his household. This prohibition includes formal or informal consideration of the matter by the Board, whether conducted in public or private. This provision does not prohibit participation in advisory decisions that will have a similar effect on all citizens of the planning area or in which the financial interest is so insignificant or remote that it is unlikely to affect the member's official action in any way. In applying this rule the following procedure shall govern:

(1) A member who has a conflict of interest shall disqualify himself and withdraw from participation in the matter. The member shall not sit with the Board during the consideration and discussion of that matter.

(2) Withdrawal from participation in any matter is necessary only in those specific cases in which a conflict arises. There shall be no attempt to exclude entire categories of consideration because of the business or profession with which a member is associated.

(3) Any Board member may seek an opinion from the City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member making the request, and a copy shall be provided to the chairman of the Board. By majority vote, the Board may seek the opinion of the City Attorney as to the applicability of this section to a particular decision or set of facts.

(4) If an opinion is received from the City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself or herself, the Board may by majority vote (not considering the vote of the member with the alleged conflict) disqualify that member from all participation in the matter involved.

(D) Members of the Board shall not commit themselves on any question scheduled to be considered by the Board prior to the consideration of the matter at a duly authorized meeting. Members shall use discretion in discussing with individuals scheduled agenda items which are later to be voted on by the Board.

(Ord. passed 3-17-92)

## **§ 2-70 ORGANIZATION, RULES, MEETINGS AND RECORDS.**

The Planning Board shall elect a chair and create and fill such offices as it may determine. The term of the chair and other officers shall be one year, with eligibility for reelection. The Director of the Planning and Inspections Department or his designated appointee shall act as the administrative assistant to the Board, and subject to the direction of the chair, shall be responsible for taking minutes of all meetings, conducting all correspondence of the Board, supervising all clerical work of the Board, maintaining a file of all studies, plans, reports, recommendations and actions of the Board, as well as, providing other technical and professional assistance to the Board. The administrative assistant shall not be eligible to vote on any matter. The Board shall adopt rules for transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings and recommendations, which shall be a public record. The Planning Board shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with its duties. All meetings shall be open to the public. A majority of the members, excluding vacant positions, shall constitute a quorum.

(Ord. passed 3-17-92; Am. Ord. passed 5-17-94; Am. Ord. passed 6-20-95; Am. Ord. passed 3-16-99)

## **§ 2-71 GENERAL POWERS AND DUTIES.**

It shall be the duty of the Planning Board, in general:

(A) To acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these

conditions;

(B) To identify needs and problems growing out of those needs;

(C) To determine objectives to be sought in development of the area;

(D) To establish principles and policies for guiding action in development of the area;

(E) To prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical, social, and economic development of the area;

(F) To prepare and recommend to the City Council ordinances promoting orderly development along lines indicated in the comprehensive plan and advise it concerning proposed amendments of such ordinances;

(G) To determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area and ordinances adopted in furtherance of such plan;

(H) To keep the City Council and the general public informed and advised as to these matters; and

(I) To perform any other duties that may lawfully be assigned to it.

(Ord. passed 3-17-92)

## **§ 2-72 BASIC STUDIES.**

(A) As background for its comprehensive plan and any ordinances it may prepare, the Planning Board may gather maps and aerial photographs of physical features of the area; statistics on past trends and present conditions with respect to population, property values, the economic base of the area, and land use; and such other information as is important or likely to be important in determining the amount, direction, and kind of development to be expected in the area and its various parts.

(B) In addition, the Planning Board may make, cause to be made, or obtain special studies on the location, the condition, and the adequacy of specific facilities; public and private utilities; and traffic, transportation, and parking facilities.

(C) All city officials shall, upon request, furnish to the Planning Board such available records or information as it may require in its work. The Board or its agents may, in the performance of its official duties, enter upon lands and make examinations of surveys and maintain necessary monuments thereon.

(Ord. passed 3-17-92)

**§ 2-73 COMPREHENSIVE PLAN.**

(A) The comprehensive plan, with the accompanying maps, plats, charts, and descriptive matter, shall be and show the Planning Board's recommendations to the City Council for the development of said territory, including, among other things, the general location, character, and extent of streets, bridges, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds, and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes, the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, buildings, grounds, open spaces, property, utilities, or terminals; and the most desirable pattern of land use within the area, including areas for farming and forestry, for manufacturing and industrial uses, for commercial uses, for recreational uses, for open spaces, and for mixed uses.

(B) The plan and any ordinances or other measures to effectuate it shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the city and its environs that will, in accordance with present and future needs, best promote health, safety, morals, and the general welfare, as well as efficiency and economy in the process of development; including among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion for the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities, services, and other public requirements.

(Ord. passed 3-17-92)

**§ 2-74 SUBDIVISION REGULATIONS.**

The Planning Board shall prepare and submit to the City Council for its consideration and possible adoption, regulations controlling the subdivision of land in accordance with the provisions of G.S. Chapter 160A, Article 19, Part 2 as amended. It shall review, from time to time the effectiveness of such regulations and may make proposals to the City Council for amendment or other improvement of those regulations and their enforcement.

(Ord. passed 3-17-92)

**§ 2-75 ZONING ORDINANCE.**

(A) The Planning Board shall prepare and submit to the City Council for its consideration and possible adoption a zoning ordinance in accordance with the provisions of G.S. Chapter 160A, Article 19, Part 3 as amended.

(B) The Planning Board may initiate, from time to time, proposals for amendment of the zoning ordinance, based upon its studies and comprehensive plan. In addition, it shall review and make

recommendations to the City Council concerning all proposed amendments to the zoning ordinance.  
(Ord. passed 3-17-92)

### **§ 2-76 PUBLIC FACILITIES.**

The Planning Board shall review with the City Manager and other city officials and report its recommendations to the City Council concerning the location, extent, and design of all proposed public properties; and the establishment of building lines, mapped street lines, and proposals to change existing street lines. It shall also make recommendations concerning other matters referred to it by the City Council.

(Ord. passed 3-17-92)

### **§ 2-77 MISCELLANEOUS POWERS AND DUTIES.**

(A) The Planning Board may conduct such public hearings as may be required to gather information for the drafting, establishment, and maintenance of the comprehensive plan. Before adopting any such plan, it shall hold at least one public hearing thereon. The Planning Board shall have power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may elect.

(B) Members or employees of the Planning Board when duly authorized by the City Manager, may attend planning conferences, meetings of planning associations, or hearings on pending planning legislation, and the Planning Board may authorize payment within the Boards budget of the reasonable traveling expenses incident to such attendance.

(Ord. passed 3-17-92)

### **§ 2-78 ANNUAL REPORT, BUDGET REQUEST, RECEIPT AND EXPENDITURE OF FUNDS.**

(A) The Planning Board shall, in April of each year, submit in writing to the City Council a report of its activities, an analysis of its expenditures to date for the current fiscal year, and its requested budget of funds needed for operation during the ensuing fiscal year. All accounts and funds of the Planning Board shall be administered substantially in accordance with the requirements of the Local Government Fiscal Control Act as shown in G.S. Chapter 159, Article 3, Section 7.

(B) The Planning Board is authorized to receive contributions from private agencies, organizations and individuals, in addition to any funds that may be appropriated for its use by the City Council. It may accept and disburse such contributions for special purposes or projects, subject to any specified conditions that it deems acceptable, whether or not such projects are included in the approved budget.

(Ord. passed 3-17-92)

**§ 2-79 SPECIAL COMMITTEES.**

The Planning Board may from time to time establish special committees to assist it in studying specific questions and problems. The membership of such committees shall not be limited to Board members. The Board shall not delegate to any such committee its official powers and duties.  
(Ord. passed 3-17-92)

***DIVISION 4 ADMINISTRATIVE STAFF***

**§ 2-81 PLANNING DEPARTMENT.**

Under the direction of the City Manager, the Planning and Inspections Department shall assist the City Council, the Planning Board, the Board of Adjustment, the Historic Preservation Commission, the Community Appearance Commission and the Tree Board with studies, advice and preparation of plans. The Planning and Inspections Department carries out the responsibilities set forth in G.S. Chapter 160A, Article 19, Part 5 with regard to enforcement of the State Building Code and other laws relating to construction. In addition, it enforces other ordinances as assigned by the City Council and the Manager. Normally, it is responsible for issuing permits, making inspections of both new construction and existing structures, issuing certificates of compliance, issuing orders to correct violations, requesting the city initiate legal actions against violators, and keeping records.  
(Ord. passed 3-17-92; Am. Ord. passed 5-17-94; Am. Ord. passed 6-20-95; Am. Ord. passed 3-16-99)

***DIVISION 5 BOARD OF ADJUSTMENT***

**§ 2-86 GENERAL POWERS AND DUTIES.**

The Board of Adjustment is charged with hearing appeals from any order, decision, requirement or determination made by the administrator of the zoning ordinance; granting in specified circumstances special-use permits under the zoning ordinance; and issuing variances under the zoning ordinance, all pursuant to provisions of G.S. Chapter 160A, Article 19, Part 3 and the zoning ordinance. The Board of Adjustment is created and empowered by the zoning ordinance of the city.  
(Ord. passed 3-17-92)

***DIVISION 6 HISTORIC PRESERVATION COMMISSION*****§ 2-91 CREATED.**

(A) The North Carolina General Statutes authorize cities to safeguard the heritage of the city by preserving any historic sites therein that embody important elements of its cultural, social, economic, political, archaeological or architectural history and to promote the use and conservation of such site for the education, pleasure and enrichment of the residents of the city, county and state as a whole.

(B) The City Council desires to safeguard the heritage of the city by preserving and regulating historic landmarks and districts; to strengthen the economic base by the stimulation of the tourist industry; to establish and improve property values and to foster economic development.

(C) The Historic Preservation Commission is hereby created to perform the duties of regulating historic districts and historic landmarks pursuant to G.S. Chapter 160A, Article 19, Part 3C and the provisions of this article.

(Ord. passed 3-17-92)

**~~See~~ § 2-92 MEMBERSHIP AND VACANCIES.**

The Historic Preservation Commission shall consist of eight members appointed by the City Council of which each Council member and the Mayor shall have the opportunity to nominate one member to the Commission. All members shall be residents of the city's planning and zoning jurisdiction at the time of appointment; a majority of the members of the Commission shall have demonstrated special interests, experience or education in history, architecture, archaeology or related fields. The members shall be appointed for a term of three years with the exception of the eight initial members. Two of the initial members shall be appointed for a term of one year; three for two years; and three for three years. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. If a member moves outside the planning and zoning jurisdiction of the city, that shall constitute a resignation from the Commission, effective immediately.

(Ord. passed 3-17-92; Am. Ord. passed 6-19-01)

**§ 2-93 ABSENCE AND ATTENDANCE.**

It shall be the duty of all Historic Preservation Commission members to inform the administrative assistant of the Commission of any anticipated absence and notification shall be immediately after receipt of the agenda. A member who misses three consecutive meetings or more than 30% of the meetings in a calendar year loses his status as a member of the Commission until reappointed or replaced by the City Council. Absences due to sickness, death or other emergencies of like nature shall

be regarded as proved absences and shall not affect the member's status on the Commission; except, that in the event of a long illness or other such case for prolonged absence the member may be replaced.

(Ord. passed 3-17-92; Am. Ord. passed 5-17-94)

**§ 2-94 RULES OF CONDUCT FOR MEMBERS.**

Members of the Historic Preservation Commission may be removed for cause by the City Council, including violation of the rules stated below.

(A) Faithful attendance at all Commission meetings and conscientious performance of the duties required of Commission members shall be considered a prerequisite of continuing membership on the Commission.

(B) Each member of the Commission shall be familiar with all statutes, laws, ordinances and rules of procedure relating to the Commission as time and circumstances permit.

(C) It shall be the duty of every Commission member to avoid even the appearance of conflict of interest. Therefore, no member shall vote on, discuss, debate, advocate, influence, or otherwise participate before the Commission in any matter that would substantially affect, directly or indirectly, his or her personal financial interests or the financial interests of a member of his household. This prohibition includes formal or informal consideration of the matter by the Commission, whether conducted in public or private. This provision does not prohibit participation in advisory decisions that will have a similar effect on all citizens of the planning area or in which the financial interest is so insignificant or remote that it is unlikely to affect the member's official action in any way. Furthermore, members of the Commission shall disqualify themselves from participation in quasi-judicial decisions in which their impartiality might reasonably be questioned. Therefore, members shall refrain from all participation in any matter in which they have a personal bias or prejudice, or a personal or financial relationship with any of the parties or the parties' representatives. In applying this rule the following procedure shall govern:

(1) A member who has a conflict of interest shall disqualify himself and withdraw from participation in the matter. The member shall not sit with the Commission during the consideration and discussion of that matter.

(2) Withdrawal from participation in any matter is necessary only in those specific cases in which a conflict arises. There shall be no attempt to exclude entire categories of consideration because of the business or profession with which a member is associated.

(3) Any Commission member may seek an opinion from the City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member making the request, and a copy shall be provided to the chairman of the Commission. By majority vote, the Commission may seek the opinion of the City Attorney as to the applicability of this section to a particular decision or set of facts.

(4) If an opinion is received from the City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself or herself, the Commission may by majority vote (not considering the vote of the member with the alleged conflict) disqualify that member from all participation in the matter involved.

(D) No Commission member shall vote on any matter that decides an application unless he has attended the hearing on that application.

(E) Members of the Commission shall not commit themselves on any question scheduled to be considered by the Commission prior to the consideration of the matter at a duly authorized meeting. Members shall use discretion in discussing with individuals scheduled agenda items which are later to be voted on by the Commission.

(F) Members of the Commission shall not express individual opinions on the proper judgement of any application with any parties thereto before that case is determined. Violation of this rule shall be cause for dismissal from the Commission.

(Ord. passed 3-17-92)

## **§ 2-95 ORGANIZATION, RULES, MEETINGS AND RECORDS.**

(A) The Historic Preservation Commission shall elect a chair and create and fill such offices as it may determine. The term of the chair and other officers shall be one year, with eligibility for reelection. The Director of the Planning and Inspections Department or his designated appointee shall act as the administrative assistant to the Commission, and subject to the direction of the chair, shall be responsible for taking minutes of all meetings, conducting all correspondence of the Commission, supervising all clerical work of the Commission, maintaining a file of all studies, plans, reports, recommendations and actions of the Commission, as well as providing other technical and professional assistance to the Commission. The administrative assistant shall not be eligible to vote on any matter.

(B) Upon its first formal meeting, and prior to performing any duties under this ordinance or G.S. Chapter 160A, Article 19, Part 3C, the Commission shall adopt rules of procedure governing the Commission's actions which are not inconsistent with this article or state law. The Commission shall also adopt principles and guidelines for new construction, alterations, additions, moving and demolition of designated historic landmarks and properties in historic districts prior to recommendation for designation of any historic landmark or historic district pursuant to this article. The Commission shall keep permanent minutes of all its meetings, which shall be a public record. The minutes shall record attendance of Commission members and the Commission's resolutions, findings, recommendations and actions. The Commission shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with its duties. All meetings shall be open to the public. A majority of the members, excluding vacant positions, shall constitute a quorum.

(Ord. passed 3-17-92; Am. Ord. passed 5-17-94; Am. Ord. passed 6-20-95; Am. Ord. passed 3-16-99)

**§ 2-96 SPECIAL COMMITTEES.**

The Historic Preservation Commission may from time to time establish special committees to assist it in studying specific questions and problems. The membership of such committees shall not be limited to Commission members. The Commission shall not delegate to such committee its official powers and duties.

(Ord. passed 3-17-92)

**§ 2-97 MISCELLANEOUS POWERS AND DUTIES.**

(A) The Historic Preservation Commission shall have the power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may elect.

(B) Members or employees of the Historic Preservation Commission when duly authorized by the City Manager, may attend conferences, meetings of preservation associations or hearings on pending preservation legislation and the Commission may authorize payment within the Commission's budget of the reasonable traveling expenses incident to such attendance.

(Ord. passed 3-17-92)

**§ 2-98 RECEIPT OF GIFTS AND AUTHORITY TO ACQUIRE HISTORIC PROPERTIES.**

The City Council shall have the right to accept gifts and donations in the name of the city for historic preservation purposes. It is authorized to make appropriations to the Commission in any amount necessary for the expenses of the operations of the Commission, and the Council may make additional amounts available as necessary for acquisition, restoration, preservation, operation, and management of historic buildings, structures, sites, areas or objects designated as historic landmarks or within designated historic districts, or of land on which buildings or structures are located, or to which they may be removed.

(Ord. passed 3-17-92)

**§ 2-99 THE ROLE OF THE CITY COUNCIL.**

(A) The designation of a historic landmark or district shall only be effective through the adoption of an ordinance by the City Council.

(B) No landmark or district shall be recommended for designation unless it is deemed to be of special significance in terms of its historical, prehistorical, architectural or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association. The landmark or district must lie within the planning and zoning jurisdiction of the city.

(Ord. passed 3-17-92)

**§ 2-100 DESIGNATION OF HISTORIC DISTRICTS.**

(A) A historic district is hereby established as a district which overlaps with other zoning districts, the extent and boundaries of which are indicated on the zoning map for the city and its environs. The historic district now contains, and may in the future contain several different residential, commercial and industrial zoning classifications, and all uses permitted in any such district, whether by right or as a special use, shall be permitted in the historic district.

(B) No historic district or districts shall be designated until:

(1) The Historic Preservation Commission shall have prepared and adopted rules of procedure for the transaction of its business and its organization not inconsistent with this ordinance.

(2) An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and the description of the boundaries of such district has been prepared, and

(3) Principles and guidelines have been prepared and adopted for constructing, altering, restoring, moving or demolishing properties designated as a part of a district, that are not inconsistent with this ordinance.

(4) The Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the City Council within 30 calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the municipality of any responsibility for awaiting such analysis and said City Council may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

(5) The City Council may also, in its discretion, refer the report and the proposed boundaries to any other interested body for its recommendation prior to taking action to amend the zoning ordinance. With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by subdivision (3) of this section shall be prepared by the Commission and shall be referred to the Planning Board for its review and comment according to procedures set forth in the zoning ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the Department of Cultural Resources in accordance with the provisions of subdivision (4) of this section.

(6) On receipt of these reports and recommendations the city may proceed in the same manner as would otherwise be required for the adoption of amendment of any appropriate zoning ordinance provisions.

(Ord. passed 3-17-92; Am. Ord. passed 5-17-94)

**§ 2-101 DESIGNATION OF LANDMARKS.**

(A) Upon complying with the landmark designation procedures as set forth in this article, the City Council may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a landmark unless it is deemed and found by the Historic Preservation Commission to be of special significance in terms of its historical, prehistorical, architectural or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

(B) The ordinance shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, or prehistorical value, including the land areas of the property so designated and any other information the City Council deems necessary. For each building, structure, site, area or object so designated as a historic landmark, the ordinance shall require that the waiting period set forth in G.S. Chapter 160A, Article 19, Part 3C and § 2-117 of this article be observed prior to its demolition. For each designated landmark the ordinance may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If an owner objects, the sign shall be placed on a nearby public right-of-way. (Ord. passed 3-17-92; Am. Ord. passed 5-17-94)

**§ 2-102 REQUIRED LANDMARK DESIGNATION PROCEDURES.**

(A) As a guide for the identification and evaluation of landmarks, the Commission shall undertake at the earliest possible time and consistent with the resources available to it an inventory of properties of historical, architectural, prehistorical and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Division of Archives and History.

(B) No ordinance designating a historic building, structure, site, area or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by the Commission or the City Council until all of the following procedural steps have been taken:

(1) The Historic Preservation Commission shall prepare and adopt rules of procedure, and prepare and adopt principles and guidelines, not inconsistent with this article, for altering, restoring, moving, or demolishing properties designated as landmarks.

(2) The Historic Preservation Commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. Such investigation or report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.

(3) The Department of Cultural Resources, acting through the State Historic Preservation Officer shall either upon request of the Department or at the initiative of the Commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark

pursuant to this article. Any comments shall be provided in writing. If the Department does not submit its comments or recommendations in connection with any designation within 30 days following receipt by the Department of the investigation and report of the Commission, the Commission and the City Council shall be relieved of any responsibility to consider such comments.

(4) The Historic Preservation Commission and the City Council shall hold a joint public hearing or separate public hearings on the proposed ordinance. Reasonable notice of the time and place thereof shall be given. All meetings of the Commission shall be open to the public in accordance with the North Carolina Open Meetings Law.

(5) Following the joint public hearing or separate public hearings, the City Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

(6) Upon adoption of the ordinance, the owners and occupants of each designated landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be filed by the Commission in the Office of the Register of Deeds of Rockingham County, and the copy shall be made available for public inspection at any reasonable time. Each designated landmark shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the Register of Deeds Office, and the Commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and all amendments there to shall be given to the Codes Inspector. The fact that a building, structure, site, area or object has been designated a landmark shall be clearly indicated on all tax records as maintained by the city as may be appropriate for such period as the designation remains in effect.

(7) Upon the adoption of the landmarks ordinance or any amendment thereto, it shall be the duty of the Commission to give notice thereof to the tax supervisor of the county in which the property is located. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor appraising it for tax purposes. (Ord. passed 3-17-92; Am. Ord. passed 5-17-94; Am. Ord. passed 3-16-99)

## **§ 2-103 POWERS OF THE HISTORIC PRESERVATION COMMISSION.**

The Historic Preservation Commission shall be authorized within the planning and zoning jurisdiction of the city to:

(A) Undertake an inventory of properties of historical, prehistorical, architectural and/or cultural significance.

(B) Recommend to the City Council structures, buildings, sites, areas or objects to be designated by ordinance as “historic landmarks” and areas to be designated by ordinance as “historic districts.”

(C) Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or

otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property.

(D) Restore, preserve and operate historic properties.

(E) Recommend to the City Council that designation of any area as a historic district or part thereof, of any building, structure, site, area or object as a historic landmark be revoked or removed.

(F) Conduct an educational program with respect to historic landmarks and districts within its jurisdiction.

(G) Cooperate with the state, federal and local governments in pursuance of the purposes of this ordinance; to offer or request assistance, aid, guidance or advice concerning matters under its purview or of mutual interest. The City Council, or the Commission when authorized by the Council, may contract with the State or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with the state or federal law.

(H) No member, employee, or agent of the Commission may enter any private buildings, structures or lands without express consent of the owner or occupant thereof.

(I) Prepare and recommend the official adoption of a preservation element as a part of the city s comprehensive plan.

(J) Review and act upon proposals for alterations, demolition, or new construction within historic districts, or for the alteration or demolition of designated landmarks pursuant to this ordinance, and

(K) Negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or its preservation when such action is reasonable, necessary or appropriate.

(Ord. passed 3-17-92)

**§ 2-104 CERTIFICATE OF APPROPRIATENESS REQUIRED.**

(A) From and after the designation of a landmark or historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor any above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on such landmark or within such district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the Commission. The city shall require such a certificate to be issued by the Commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of the ordinance. A certificate of appropriateness shall be required whether or not a building or other permit is required.

(1) For purposes of this article “exterior features” shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and

texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant features. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size and location of all such signs. "Exterior features" shall not include paint type or color.

(2) Except as provided in (B) below, the Commission shall have no jurisdiction over interior arrangement and shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, outdoor advertising signs or other significant features in the district or of the landmark which would be incongruous with the special character of the landmark or district.

(B) (1) Notwithstanding subsection (A) above, the jurisdiction of the Commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned landmarks; and of privately owned historic landmarks for which consent for interior review has been given by the owner. Said consent of any owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the Office of the Register of Deeds of Rockingham County and indexed according to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the Commission's jurisdiction over the interior.

(2) All of the provisions of this article are applicable to the construction, alteration, moving and demolition by the state, its political subdivisions, agencies and instrumentalities, provided however that they shall not apply to interiors of buildings or structures owned by the state. The state and its agencies shall have a right of appeal to the North Carolina Historical Commission or any successor agency assuming its responsibilities under G.S. § 121-12(a) from any decision of the local commission. The current edition of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be the sole principles and guidelines used in reviewing applications of the State for certificates of appropriateness. The decision of the Historical Commission shall be binding upon the State and the Commission.

(C) The city and all public utility companies shall be required to obtain a certificate of appropriateness prior to initiating work in a historic district for any changes in the character of street paving, sidewalks, trees, utility installations, lighting, walls, fences, structures and buildings on property, easements or streets owned or franchised by the city or public utility companies.  
(Ord. passed 3-17-92)

## **§ 2-105 REQUIREMENTS FOR ISSUANCE OF CERTIFICATES OF APPROPRIATENESS.**

An application for a certificate of appropriateness shall be obtained from and when completed, filed with the administrator of the zoning ordinance.  
(Ord. passed 3-17-92)

**§ 2-106 CONTENTS OF AN APPLICATION.**

(A) The application shall, in accordance with the Commission's rules of procedure, contain data that is reasonably necessary to determine the nature of the application. An application for a certificate of appropriateness shall not be considered complete until all required data has been submitted. Applications shall be considered by the Commission at its next regular meeting, provided they have been filed, complete in form and content 15 calendar days before the regularly scheduled meeting of the Commission. Otherwise, they shall be deferred until the next meeting or considered at a special meeting of the Commission.

(B) Nothing shall prevent the applicant from filing with the application additional relevant information bearing on the application.  
(Ord. passed 3-17-92)

**§ 2-107 NOTIFICATION OF AFFECTED PROPERTY OWNERS.**

Prior to any action taken on a certificate of appropriateness application, the owners of all property located within 100 feet of the subject property shall be notified in writing. The applicant and such affected owners shall be given an opportunity to address the Board.  
(Ord. passed 3-17-92)

**§ 2-108 PUBLIC HEARING.**

In cases where the Commission deems it necessary, it may hold a public hearing concerning an application for a certificate of appropriateness. All meetings of the Commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, G.S. Chapter 143, Article 33C.  
(Ord. passed 3-17-92)

**§ 2-109 ACTION ON AN APPLICATION.**

(A) The action on an application shall be approval, approval with modifications, or denial.

(B) Prior to any final action on an application the review criteria in § 2-111 shall be used to make findings of fact indicating the extent to which the application is or is not congruous with the historic aspects of the district or landmark.

(C) All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time as defined by the rules and procedure, not to exceed 180 days from the date the application is filed. As part of its review procedure the Commission may view the premises and seek the advice of the Department of Cultural Resources, Division of Archives and History, or other such experts as it may deem necessary.  
(Ord. passed 3-17-92)

**§ 2-110 APPEALS.**

An appeal may be taken to the Board of Adjustment from the Commission's action in granting or denying any certificate, which appeals may be taken by any aggrieved party, shall be taken within times prescribed by the Commission in the rules of procedure, and shall be in the nature of certiorari. Any appeal from the Board of Adjustment's decision in any such case shall be heard by the Superior Court of Rockingham County.

(Ord. passed 3-17-92)

**§ 2-111 SUBMISSION OF NEW APPLICATIONS.**

If a certificate of appropriateness is denied, a new application affecting the same property may be submitted only if substantial change, as determined by the Commission, is made in plans for the proposed construction, reconstruction, alteration, restoration or moving.

(Ord. passed 3-17-92)

**§ 2-112 REVIEW CRITERIA FOR CERTIFICATES OF APPROPRIATENESS.**

(A) It is the intent of these criteria, and the design guidelines, to ensure, insofar as possible, that changes to a designated landmark or structures in a historic district shall be in harmony with the reasons for designation.

(B) When considering a certificate of appropriateness, the Commission shall take into account the historic or architectural significance of the structure, as well as the effect of such change or additions upon other structures in the vicinity. In a historic district it is not the intention of these criteria or the guidelines to require the reconstruction or restoration of individual or original buildings or prohibit the demolition, except as provided in § 2-117(3) of this article, or removal of same or to impose architectural styles from particular historic periods. In considering new construction on a landmark or in a historic district the Commission shall encourage contemporary design which is harmonious with the character of the district.

(C) The following criteria shall be considered, when relevant, along with companion design guidelines and the guidelines of the Secretary of the Interior in reviewing an application for a certificate of appropriateness:

- (1) Lot coverage, defined as the percentage of lot area covered by primary structures.
- (2) Setback, defined as the distance from the lot lines to the building(s).
- (3) Building height.
- (4) Spacing of buildings, defined as the distance between adjacent buildings.
- (5) Building materials.

(6) Proportion, shape, positioning, location, pattern and sizes of windows and doors.

(7) Surface textures.

(8) Roof shapes, forms and materials.

(9) Use of local or regional architectural traditions.

(10) General form and proportions of buildings and structures, and relationship of any additions to the main structure.

(11) Expression of architectural detailing, such as lintels, cornices, brick bond, and decorative elements.

(12) Orientation of the building to the street.

(13) Scale, determined by the size of the units of construction and architectural details in the relation to the human scale and also by the relationships of the building mass to adjoining open space and nearby buildings and structures.

(14) Proportion of width to height of the total building facade.

(15) Archaeological sites and resources associated with standing structures.

(16) Major landscaping efforts that would impact known archaeological sites.

(17) Appurtenant features and other features such as lighting.

(18) Structural condition and soundness.

(Ord. passed 3-17-92; Am. Ord. passed 5-17-94)

**§ 2-113 MINOR WORKS.**

(A) A certificate of appropriateness application, when determined to involve a minor work, may be reviewed and approved by the administrator of the zoning ordinance according to specific review criteria and guidelines. The administrator may preliminarily deny an application; however, such application will automatically be put before the Commission for review. Minor works are alterations, additions or removals that do not involve substantial alterations, additions or removals that could impair the integrity of the property and/or the district as a whole.

(B) Such minor works shall be limited to those listed in the Commission's rules of procedure and/or in the adopted principles and guidelines for historic districts or landmarks. A denial of an application involving a minor work by the administrator may be appealed to the Commission.

(Ord. passed 3-17-92)

**§ 2-114 CERTAIN CHANGES NOT PROHIBITED.**

Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of a historic landmark or in a historic district which does not involve a change in design, materials, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature which the Codes Inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent a property owner from making any use of his property not prohibited by other statutes, ordinances, or regulations. Nothing in this article shall be construed to regulate paint type or color. Nothing in this article shall be construed to prevent the maintenance or in the event of emergency, the immediate restoration of any existing above-ground utility structure without approval by the Commission.

(Ord. passed 3-17-92; Am. Ord. passed 5-17-94; Am. Ord. passed 3-16-99)

**§ 2-115 CONFLICT WITH OTHER LAWS.**

Whenever any ordinance adopted for the designation of landmarks or districts requires a longer waiting period or imposes higher standards with respect to a designated landmark or district than are established under any other statute, charter provision, or regulation, this article shall govern. Whenever the provisions of any other statute, charter provision or regulation require a longer waiting period or impose higher standards than are established under this article such other statute, charter provision, ordinance or regulation shall govern.

(Ord. passed 3-17-92)

**§ 2-116 ENFORCEMENT AND REMEDIES.**

(A) Compliance with the terms of the certificate of appropriateness shall be enforced by the administrator of the zoning ordinance. Failure to comply with the certificate of appropriateness shall be a violation of the zoning ordinance and is punishable according to established procedures and penalties for such violations. A certificate of appropriateness shall expire six months after the date of issuance if the work authorized by the certificate has not been commenced. If after commencement, the work is discontinued for a period of six months the permit therefore shall immediately expire. No work authorized by any certificate which has expired shall thereafter be performed until a new certificate has been secured.

(B) In case any building, structure, site, area or object designated as a historic landmark or located within a historic district designated pursuant to this article is about to be demolished whether as result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the ordinance, the city, the Commission, or other party aggrieved by such action may institute any appropriate action or proceeding to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation or to prevent any illegal act or conduct with respect to such a building, structure, site, area or object. Such remedies shall be in addition to any others authorized for violation of a municipal ordinance.

(Ord. passed 3-17-92)

**§ 2-117 DELAY IN DEMOLITION OF LANDMARKS AND BUILDINGS WITHIN HISTORIC DISTRICTS.**

(A) An application for a certificate of appropriateness authorizing the demolition or destruction of a designated landmark or a building, structure, or site within the district may not be denied except as provided in subsection (C) below. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay. During such period the Commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the Commission finds that a building or site within the historic district has no special significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal. If the Commission or Planning Board has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the City Council, the demolition or destruction of any building, site or structure located on the property of the proposed landmark or in the proposed district may be delayed by the Commission or Planning Board for a period of up to 180 days or until the City Council takes final action on the designation, whichever occurs first.

(B) The City Council may enact an ordinance to prevent the demolition by neglect of any designated landmark or any building or structure within an established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue economic hardship.

(C) An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site or structure determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

(Ord. passed 3-17-92; Am. Ord. passed 5-17-94)

**§ 2-118 ANNUAL REPORT AND BUDGET REQUEST.**

The Historic Preservation Commission shall, in April of each year, submit in writing to the City Council a report of its activities, an analysis of its expenditures to date for the current fiscal year, and its requested budget of funds needed for operation during the ensuing fiscal year. All accounts and funds of the Historic Preservation Commission shall be administered substantially in accordance with the requirements of the Local Government Fiscal Control act as shown in G.S. Chapter 159, Article 3, Section 7.

(Ord. passed 3-17-92)

***DIVISION 7 COMMUNITY APPEARANCE COMMISSION*****§ 2-121 CREATED.**

(A) The Community Appearance Commission develops and carries out voluntary programs, policies and ordinances to improve community appearance and advises governmental agencies on aesthetic matters.

(B) The Community Appearance Commission is hereby created pursuant to G.S. Chapter 160A, Article 19, Part 7 and the provisions of this article.  
(Ord. passed 3-17-92)

**§ 2-122 MEMBERSHIP AND VACANCIES.**

The Community Appearance Commission shall consist of eight members appointed by the City Council of which each Council member and the Mayor shall have the opportunity to nominate one person to the Commission. All members shall be residents of the city's planning and zoning jurisdiction at the time of appointment. Where possible, appointments shall be made in such 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 architecture, horticulture, city planning or a closely related field. The members shall be appointed for a term of three years with the exception of the initial eight members. Three of the initial members shall be appointed for a term of one year; three for two years and two for three years. If a member of the Commission moves outside the planning and zoning jurisdiction, that shall constitute a resignation from the Commission, effective upon the date a replacement is appointed. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term.

(Ord. passed 3-17-92)

**§ 2-123 ABSENCE AND ATTENDANCE.**

It shall be the duty of all Appearance Commission members to inform the administrative assistant of the Commission of any anticipated absence and notification shall be immediately after receipt of the agenda. A member who misses three consecutive meetings or more than 30% of the meetings in a calendar year loses his status as a member of the Commission until reappointed or replaced by the City Council. Absences due to sickness, death or other emergencies of like nature shall be regarded as proved absences and shall not affect the member's status on the Commission; except, that in the event of a long illness or other such case for prolonged absence the member may be replaced.

(Ord. passed 3-17-92; Am. Ord. passed 5-17-94)

**§ 2-124 RULES OF CONDUCT FOR MEMBERS.**

Members of the Community Appearance Commission may be removed for cause by the City

Council, including violation of the rules stated below.

(A) Faithful attendance at all Commission meetings and conscientious performance of the duties required of Commission members shall be considered a prerequisite of continuing membership on the Commission.

(B) Each member of the Commission shall be familiar with all statutes, laws, ordinances and rules of procedure relating to the Commission as time and circumstances permit.

(C) It shall be the duty of every Commission member to avoid even the appearance of conflict of interest. Therefore, no member shall vote on, discuss, debate, advocate, influence, or otherwise participate before the Commission in any matter that would substantially affect, directly or indirectly, his or her personal financial interests or the financial interests of a member of his household. This prohibition includes formal or informal consideration of the matter by the Commission, whether conducted in public or private. This provision does not prohibit participation in advisory decisions that will have a similar effect on all citizens of the planning area or in which the financial interest is so insignificant or remote that it is unlikely to affect the member's official action in any way. In applying this rule the following procedure shall govern:

(1) A member who has a conflict of interest shall disqualify himself and withdraw from participation in the matter. The member shall not sit with the Commission during the consideration and discussion of that matter.

(2) Withdrawal from participation in any matter is necessary only in those specific cases in which a conflict arises. There shall be no attempt to exclude entire categories of consideration because of the business or profession with which a member is associated.

(3) Any Commission member may seek an opinion from the City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member making the request, and a copy shall be provided to the chairman of the Commission. By majority vote, the Commission may seek the opinion of the City Attorney as to the applicability of this section to a particular decision or set of facts.

(4) If an opinion is received from the City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself or herself, the Commission may by majority vote (not considering the vote of the member with the alleged conflict) disqualify that member from all participation in the matter involved.

(D) Members of the Commission shall not commit themselves on any question scheduled to be considered by the Commission prior to the consideration of the matter at a duly authorized meeting. Members shall use discretion in discussing with individuals scheduled agenda items which are later to be voted on by the Commission.

(Ord. passed 3-17-92)

**§ 2-125 ORGANIZATION, RULES, MEETINGS AND RECORDS.**

The Community Appearance Commission shall elect a chair and create and fill such offices as it may determine. The term of the chair and other officers shall be one year, with eligibility for reelection. The Director of the Planning and Inspections Department or his designated appointee shall act as the administrative assistant to the Commission, and subject to the direction of the chair, shall be responsible for taking minutes of all meetings, conducting all correspondence of the Commission, supervising all clerical work of the Commission, maintaining a file of all studies, plans, reports, recommendations and actions of the Commission, as well as providing other technical and professional assistance to the Commission. The administrative assistant shall not be eligible to vote on any matter. The Commission shall adopt rules for transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings and recommendations, which shall be a public record. The Commission shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with its duties. All meetings shall be open to the public. A majority of the members, excluding vacant positions, shall constitute a quorum.

(Ord. passed 3-17-92; Am. Ord. passed 5-17-94; Am. Ord. passed 6-20-95; Am. Ord. passed 3-16-99)

**§ 2-126 GENERAL POWERS AND DUTIES.**

The Commission shall have the power and duty to:

(A) Initiate promote and assist in the implementation of programs of general community beautification in the city;

(B) Seek to coordinate the activities of individuals, agencies, and organizations, public and private, whose plans, activities and programs bear upon the appearance of the city;

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

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

(E) Prepare both general and specific plans for the improved appearance of the city. 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 city or any part thereof within its area of planning and zoning jurisdiction including public ways and areas, open spaces, and public and private buildings and projects.

(F) 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 city;

(G) Review these plans and make recommendations regarding their aesthetic suitability to the

appropriate agency, or to the planning or governing board. 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 or governing body of the city and to the appropriate agency;

(H) Formulate and recommend to the City Council the adoption of amendments or ordinances regulating the use of property that will in the opinion of the Commission serve to enhance the appearance of the city and its surrounding area.

(I) Direct the attention of city officials to needed enforcement of any ordinance that may in any way affect the appearance of the city;

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

(K) Enter in the performance of its official duties and at reasonable times upon private lands and make examinations or surveys.

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

(M) Conduct public meetings and hearings, giving reasonable notice to the public thereof.  
(Ord. passed 3-17-92)

**§ 2-127 ANNUAL REPORT, BUDGET REQUEST, RECEIPT AND EXPENDITURE OF FUNDS.**

(A) The Commission shall, in April of each year, submit in writing to the City Council a report of its activities, a statement of its expenditures to date for the current fiscal year, and its requested budget for the next fiscal year. All accounts and funds of the Commission shall be administered substantially in accordance with the requirements of the Local Government Fiscal Control Act all shown in G.S. Chapter 159, Article 3, Section 7.

(B) The Commission may receive contributions from private agencies, foundations, organizations, individuals and the state or federal government, or any other source in addition to any sums appropriated for its use by the City Council. It may accept and disburse these funds for any purpose within the scope of the authority and as specified in this chapter.  
(Ord. passed 3-17-92)

**§ 2-128 SPECIAL COMMITTEES.**

The Community Appearance Commission may from time to time establish special committees to assist it in studying specific questions and problems. The membership of such committees shall not be limited to Commission members. The Commission shall not delegate to any such committee its official powers and duties. (Ord. passed 3-17-92)

**§ 2-129 MISCELLANEOUS POWERS AND DUTIES.**

(A) The Community Appearance Commission shall have the power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may elect.

(B) Members or employees of the Community Appearance Commission, when duly authorized by the City Manager, may attend conferences, meetings of appearance associations, or hearings on pending appearance legislation, and the Commission may authorize payment within the Commission's budget of the reasonable traveling expenses incident to such attendance.

(Ord. passed 3-17-92)

***DIVISION 8 TREE BOARD*****§ 2-132 CREATED.**

(A) The City Council desires to encourage the protection of trees within the city and to express the city's intent to use trees to create a more natural and amenable human environment. The regulations contained herein shall govern the planting, maintenance and removal of trees on municipally owned public property and rights-of-way. This shall include the trimming or removal of trees on public land when they obscure street lights, or constitute a hazard to pedestrian or vehicular traffic, or otherwise endanger the public health, safety or welfare. This ordinance is not intended to cause hardship to any person who uses the utmost care and diligence to protect trees within the city or on city property.

(B) The Tree Board is hereby created pursuant to G.S. § 160A-174 and the provisions of this article.

(Ord. passed 3-17-92)

**§ 2-133 MEMBERSHIP AND VACANCIES.**

The Tree Board shall consist of eight members appointed by the City Council of which each Council member and the Mayor shall have the opportunity to nominate one person to the Board. All members shall be residents of the city's planning and zoning jurisdiction at the time of appointment. Where possible, appointments shall be made in such a manner as to maintain on the Commission at all times a majority of members who have had special training or experience in landscape architecture, horticulture, city planning or a closely related field. The members shall be appointed for a term of three years with the exception of the original eight members. Three of the initial members shall be appointed for a term of one year; two for two years; and three for three years. If a member of the board

moves outside the planning and zoning jurisdiction, that shall constitute a resignation from the Board, effective upon the date a replacement is appointed. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term.

(Ord. passed 3-17-92)

**§ 2-134 ABSENCE AND ATTENDANCE.**

It shall be the duty of all members to inform the administrative assistant of the Board of any anticipated absence and notification shall be immediately after receipt of the agenda. A member who misses three consecutive meetings or more than 30% of the meetings in a calendar year loses his status as a member of the Board until reappointed or replaced by the City Council. Absences due to sickness, death or other emergencies of like nature shall be regarded as proved absences and shall not affect the member's status on the Board; except, that in the event of a long illness or other such case for prolonged absence the member may be replaced.

(Ord. passed 3-17-92; Am. Ord. passed 5-17-94)

**§ 2-135 RULES OF CONDUCT FOR MEMBERS.**

Members of the Tree Board may be removed for cause by the City Council, including violation of the rules stated below.

(A) Faithful attendance at all Board meetings and conscientious performance of the duties required of Board members shall be considered a prerequisite of continuing membership on the Board.

(B) Each member of the Board shall be familiar with all statutes, laws, ordinances and rules of procedure relating to the Board as time and circumstances permit.

(C) It shall be the duty of every Board member to avoid even the appearance of conflict of interest. Therefore, no member shall vote on, discuss, debate, advocate, influence, or otherwise participate before the Board in any matter that would substantially affect, directly or indirectly, his or her personal financial interests or the financial interests of a member of his household. This prohibition includes formal or informal consideration of the matter by the Board, whether conducted in public or private. This provision does not prohibit participation in advisory decisions that will have a similar effect on all citizens of the city planning area or in which the financial interest is so insignificant or remote that it is unlikely to affect the member's official action in any way. In applying this rule the following procedure shall govern:

(1) A member who has a conflict of interest shall disqualify himself and withdraw from participation in the matter. The member shall not sit with the Board during the consideration and discussion of that matter.

(2) Withdrawal from participation in any matter is necessary only in those specific cases in which a conflict arises. There shall be no attempt to exclude entire categories of consideration because of the business or profession with which a member is associated.

(3) Any board member may seek an opinion from the City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member making the request, and a copy shall be provided to the chairman of the Board. By majority vote, the Board may seek the opinion of the City Attorney as to the applicability of this section to a particular decision or set of facts.

(4) If an opinion is received from the City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself or herself, the Board may by majority vote (not considering the vote of the member with the alleged conflict) disqualify that member from all participation in the matter involved.

(D) Members of the Board shall not commit themselves on any question scheduled to be considered by the Board prior to the consideration of the matter at a duly authorized meeting. Members shall use discretion in discussing with individuals scheduled agenda items which are later to be voted on by the Board.

(Ord. passed 3-17-92)

## **§ 2-136 ORGANIZATION, RULES, MEETINGS AND RECORDS.**

The Tree Board shall elect a chair and create and fill such offices as it may determine. The term of the chair and other officers shall be one year, with eligibility for reelection. The Director of the Planning and Inspections Department or his designated appointee shall act as the administrative assistant to the Board, and subject to the direction of the chair, shall be responsible for taking minutes of all meetings, conducting all correspondence of the Board, supervising all clerical work of the Board, maintaining a file of all studies, plans, reports, recommendations and actions of the Board, as well as, providing other technical and professional assistance to the Board. The administrative assistant shall not be eligible to vote on any matter. The Board shall adopt rules for transaction of its business which are in keeping with the provisions of this article. The rules shall include the provisions of this section in addition to the rules the Board shall adopt. The Board shall establish a regular meeting schedule and shall meet frequently enough so that it can handle the duties as prescribed by this article. All meetings of the Board shall be open to the public. All deliberations and actions of the Board shall be conducted openly. A majority of the members, excluding vacant positions, shall constitute a quorum. All actions of the Board shall be taken by majority vote, a quorum being present. The Board shall keep minutes of its proceedings, showing the vote of each member. A copy of the record shall be maintained on file for public inspection in the office of the secretary.

(Ord. passed 3-17-92; Am. Ord. passed 5-17-94; Am. Ord. passed 6-20-95; Am. Ord. passed 3-16-99)

## **§ 2-137 ANNUAL REPORT, BUDGET REQUEST, RECEIPT AND EXPENDITURE OF FUNDS.**

(A) The primary duty of the Tree Board shall be the administration and maintenance of the Tree Ordinance. In connection with this responsibility, the Tree Board shall, in April of each year, submit in writing to the City Council a report of its activities, an outline of projects for the following year, an analysis of its expenditures to date for the current fiscal year, and its requested budget of funds needed

for operation during the ensuing fiscal year. All accounts and funds of the Tree Board shall be administered substantially in accordance with the requirements of the Local Government Fiscal Control Act, all as shown in G.S. Chapter 159, Article 3, Section 7. Upon its acceptance and approval, this annual report shall constitute the office Comprehensive City Tree Plan for the City of Eden, North Carolina.

(B) The Tree Board is authorized to receive contributions from private agencies, organizations, and individuals, in addition to any funds that may be appropriated for its use by the City Council. It may accept and disburse such contributions for special purposes or projects, subject to any specified conditions that it deems acceptable, whether or not such projects are included in the approved budget. (Ord. passed 3-17-92)

**§ 2-138 DUTIES AND RESPONSIBILITIES.**

The duties and responsibilities of the Tree Board shall include the following:

(A) To investigate, report and make recommendations on any matter of question falling within the scope of its work, when requested by the City Council;

(B) To facilitate the planting, growth and protection of trees within the city;

(C) To coordinate and sponsor an annual city-wide Arbor Day observance;

(D) To conduct and maintain an accurate survey of trees located on municipally owned property.

(E) To investigate and pursue grants, loans or contributions from governmental agencies, public or private corporations, and individuals;

(F) To develop programs and promotions within the city which will encourage public participation and cooperation;

(G) To develop and maintain a list of tree species to be used as a guide for planting;

(H) To develop and maintain a set of detailed guidelines including spacing between trees; minimum distances trees may be from curbs or curb lines, sidewalks, and street corners; the location of trees relative to overhead and underground water lines, sewer lines or other utilities; and any other criteria needed to regulate the planting, maintenance and removal of municipally owned trees.

(Ord. passed 3-17-92)

**§ 2-139 MISCELLANEOUS POWERS AND DUTIES.**

(A) The Tree Board shall have the power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may elect.

(B) Members or employees of the Tree Board, when duly authorized by the City Manager, may attend conferences, meetings or hearings on pending legislation and the Tree Board may authorize payment within the Board's budget of the reasonable traveling expenses incident to such attendance. (Ord. passed 3-17-92)

#### **§ 2-140 SPECIAL COMMITTEES.**

The Tree Board may from time to time establish special committees to assist it in studying specific questions and problems. The membership of such committees shall not be limited to Board members. The Board may not delegate to any such committee its official powers and duties. (Ord. passed 3-17-92)

#### **§ 2-141 TREE PLANTING, MAINTENANCE AND REMOVAL.**

(A) The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs on municipally owned land along streets, alleys, avenues, lanes, squares and public grounds, as is necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(B) The Tree Board may, as an agent of the city, plant, maintain, remove or cause to be removed any municipally owned tree or part thereof which is in an unsafe condition, which by reason of its nature is or may become injurious to public improvements and utilities, or which is affected with any fungus, disease, insect or other injurious condition. (Ord. passed 3-17-92)

#### **§ 2-142 TREE TOPPING.**

It shall be unlawful for any person, firm, or city department to top any tree on public property without prior approval of the Tree Board. Topping is defined as severe pruning of tree limbs larger than three inches in diameter within the tree's crown which removes the normal canopy and or disfigures the tree. Approval for topping will be granted only in cases where trees have been severely damaged, where they interfere with or are an imminent threat to public property or utilities, or where other pruning practices are deemed impractical. (Ord. passed 3-17-92) Penalty, see § 1-16 *et seq.*

#### **§ 2-143 REMOVAL OF STUMPS.**

All tree stumps shall be removed to a point below the surface of the ground. The resulting hole or indentation shall be filled with topsoil to the level of the surrounding land. In no case shall a stump or portion of a stump remain above ground. (Ord. passed 3-17-92) Penalty, see § 1-16 *et seq.*

**§ 2-144 PLANTING BY PRIVATE CITIZENS.**

Citizens are strongly encouraged to contact the Tree Board prior to planting to ensure compliance with these guidelines.  
(Ord. passed 3-17-92)

**§ 2-145 PERMITS REQUIRED.**

(A) It shall be unlawful for any person, firm, or private group to prune, treat, or remove any tree on municipally owned property without first obtaining a permit from the city. The Tree Board will review the permit application and may inspect the tree(s) in question to determine whether or not a permit should be issued. If the Tree Board does not approve the permit reasons for such action shall be made in writing to the applicant.

(B) A fee shall be charged for issuance of a permit. The permit fee shall be established by the City Council. All fees are due and payable when the permit application is submitted. All fees paid are non-refundable.  
(Ord. passed 3-17-92) Penalty, see § 1-16 *et seq.*

**§ 2-146 INTERFERENCE WITH THE TREE BOARD.**

It shall be unlawful for any person, firm, or city department to prevent, delay or interfere with the Tree Board, or any of its agents, while engaging in activities authorized by this article.  
(Ord. passed 3-17-92) Penalty, see § 1-16 *et seq.*

**§ 2-147 APPEAL TO THE CITY COUNCIL.**

(A) Any person may appeal any ruling or order of the Tree Board to the City Council. An appeal must be made in writing and must include the following:

- (1) A description and justification of the proposed activity:
- (2) A description of the tree(s) to be affected including approximate size, location and specie(s); and
- (3) Specific reasons for appeal.

(B) Thirteen copies of the appeal must be submitted to the Tree Board at least two weeks prior to the City Council meeting at which the appeal is to be heard. The Tree Board shall convey 11 copies to the City Clerk. The chairman of the Tree Board or an alternate shall be present for the appeal discussion at the City Council meeting and should be prepared to defend or retract the appealed action.  
(Ord. passed 3-17-92)

***DIVISION 9 STRATEGIC PLANNING COMMISSION*****§ 2-148. CREATED.**

The City of Eden Strategic Planning Commission is hereby created pursuant to Chapter 160A-361 of the N.C. Gen. Statutes and the provisions of this ordinance.

**§ 2-149. MEMBERSHIP AND VACANCIES.**

The Strategic Planning Commission shall consist of 12 members. Members shall be citizens and residents of the City of Eden, its ETJ, local business owners or shall be persons with expertise deemed to be appropriate for inclusion on the Commission. The members shall be appointed for terms of three (3) years, with the exception of the initial members. Four (4) of the initial members shall be appointed for a term of one (1) year; four (4) for two (2) years; and four (4) for three (3) years. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. Members may be re-appointed. The Strategic Planning Commission shall make recommendations to the City Council for members either to fill unexpired terms or new members.

**§ 2-150. ABSENCE AND ATTENDANCE.**

It shall be the duty of all Strategic Planning Commission members to inform the administrative assistant of the board of any anticipated absence and notification shall be immediately after receipt of the agenda. A member who misses three (3) consecutive regular meetings or more than 30% of the meetings in a calendar year loses his status as a member of the Commission until reappointed or replaced by the governing body of his respective unit after the receipt of a recommendation from the Strategic Planning Commission.

**§ 2-151. RULES OF CONDUCT FOR MEMBERS.**

Members of the Strategic Planning Commission may be removed for cause by the City Council, including violation of the rules stated below.

- (1) Faithful attendance at all Commission meetings and conscientious performance of the duties required of Commission members shall be considered a prerequisite of continuing membership on the Commission.
- (2) Each member of the Commission shall be familiar with all statutes, laws, ordinances and rules of procedure relating to the Commission as time and circumstances permit.
- (3) It shall be the duty of every Commission member to avoid even the appearance of conflict of interest. Therefore, no member shall vote on, discuss, debate, advocate, influence, or otherwise participate before the Commission in any matter that would substantially affect, directly or indirectly, his or her personal financial interests or the financial interests of a member of his household. This prohibition includes formal or informal consideration of the matter by the Commission, whether conducted in public or private. This provision does not prohibit participation in advisory decisions that will have a similar effect on all citizens of the Eden planning area or in which the financial interest is so insignificant or remote that it is unlikely to affect the member's official action in any way. In applying this rule, the following procedure shall govern:

- (a) A member who has a conflict of interest shall disqualify himself and withdraw from participation in the matter. The member shall not sit with the Commission during the consideration and discussion of that matter.
  - (b) Withdrawal from participation in any matter is necessary only in those specific cases in which a conflict arises. There shall be no attempt to exclude entire categories of consideration because of the business or profession with which a member is associated.
  - (c) Any Commission member may seek an opinion from the City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member making the request, and a copy shall be provided to the chairman of the Commission. By majority vote, the Commission may seek the opinion of the City Attorney as to the applicability of this section to a particular decision or set of facts.
  - (d) If an opinion is received from the City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself or herself, the commission may, by majority vote (not considering the vote of the member with the alleged conflict) disqualify that member from all participation in the matter involved.
- (4) Members of the Commission shall not commit themselves on any question scheduled to be considered by the Commission prior to the consideration of the matter at a duly authorized meeting. Members shall use discretion in discussing with individuals scheduled agenda items which are later to be voted on by the Commission.

**§ 2-152. ORGANIZATION, RULES, MEETINGS AND RECORDS.**

The Strategic Planning Commission shall elect a chair and create and fill such offices as it may determine. The term of the chair and other officers shall be one (1) year, with eligibility for reelection. The Planning and Inspections Director or his designated appointee shall act as the administrative assistant to the Commission, and subject to the direction of the chair, shall be responsible for taking minutes of all meetings, conducting all correspondence of the Commission, supervising all clerical work of the Commission, maintaining a file of all studies, plans, reports, recommendations and actions of the Commission, as well as, providing other technical and professional assistance to the Commission. The administrative assistant shall not be eligible to vote on any matter. The Commission shall adopt rules for transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings and recommendations, which shall be a public record. The Strategic Planning Commission shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with its duties. All meetings shall be open to the public. A majority of the members, excluding vacant positions, shall constitute a quorum.

**§ 2-153. GENERAL POWERS AND DUTIES.**

It shall be the duty of the Strategic Planning Commission, in general:

- (1) To acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions;
- (2) To identify needs and problems growing out of those needs;

- (3) To prepare and, from time to time, amend and revise a strategic and coordinated plan for the physical, social, and economic development of the area;
- (4) To prepare and recommend to the City Council projects, ordinances, initiatives and programs along lines indicated in the Strategic Plan and advise it concerning these issues;
- (5) To keep the City Council and the general public informed and advised as to these matters;
- (6) To monitor the progress and success of the Strategic Plan and to inform the City Council and the Citizens of the City of Eden Planning Jurisdiction; and
- (7) To perform any other duties that may lawfully be assigned to it.

**§ 2-154. BASIC STUDIES.**

As background for its Strategic Plan and any ordinances it may prepare, the Strategic Planning Commission may gather maps and aerial photographs of physical features of the area; statistics on past trends and present conditions with respect to population, property values, the economic base of the area, and land use; and such other information as is important or likely to be important in determining the amount, direction, and kind of development to be expected in the area and its various parts.

In addition, the Strategic Planning Commission may make, cause to be made, or obtain special studies on the location, the condition, and the adequacy of public facilities.

All city officials shall, upon request, furnish to the Strategic Planning Commission such available records or information as it may require in its work. The Commission or its agents may, in the performance of its official duties, enter upon lands and make examinations of surveys and maintain necessary monuments thereon.

**§ 2-155. ANNUAL REPORT, BUDGET REPORT, BUDGET REQUEST, RECEIPT AND EXPENDITURE OF FUNDS.**

The Strategic Planning Commission shall, in February of each year, submit in writing to the City Council a report of its activities, an analysis of its expenditures to date for the current fiscal year, and its requested budget of funds needed for operation during the ensuing fiscal year. All accounts and funds of the Strategic Planning Commission shall be administered substantially in accordance with the requirements of the Local Government Fiscal Control Act all as shown in Article 3, Chapter 159, Section 7 of the N.C. General Statutes.

The Strategic Planning Commission is authorized to receive contributions from private agencies, organizations and individuals, in addition to any funds that may be appropriated for its use by the City Council. It may accept and disburse such contributions for special purposes or projects, subject to any specified conditions that it deems acceptable, whether or not such projects are included in the approved budget.

**§ 2-156. SPECIAL COMMITTEES.**

The Strategic Planning Commission may from time to time establish special committees to assist it in studying specific questions and problems. The membership of such committees shall not be

limited to commission members. The Commission shall not delegate to any such committee its official powers and duties.

**§ 2-157. RESERVED.**

**ARTICLE IV: OFFICERS AND EMPLOYEES**

Section

*Division 1 Generally*

[Reserved]

*Division 2 City Manager*

- 2-156 Office created; appointment
- 2-157 Qualifications; combination of offices
- 2-158 Term; compensation
- 2-159 Duties

*Division 3 City Engineer*

- 2-176 Appointment
- 2-177 Qualifications
- 2-178 Duties
- 2-179 Assistants

*Division 4 Accident Investigation Committee*

- 2-185 Created
- 2-186 Composition; appointment and qualifications of members
- 2-187 Terms of members
- 2-188 Quorum
- 2-189 Compensation of members
- 2-190 Officers; meetings
- 2-191 Powers and duties

***DIVISION 1 GENERALLY***

[Reserved]

***DIVISION 2 CITY MANAGER*****§ 2-156 OFFICE CREATED; APPOINTMENT.**

Pursuant to authority granted by state law, the City Council is hereby authorized to and shall appoint a chief administrative officer for the city whose title shall be City Manager.

('89 Code, § 2-156)

***Statutory reference:***

*City Manager, see G.S. § 160A-147 through 160A-151*

**§ 2-157 QUALIFICATIONS; COMBINATION OF OFFICES.**

The City Manager shall be appointed with regard to merit only. He need not be a resident of the city at the time of his appointment. The Mayor and members of the City Council shall be ineligible for appointment as City Manager. The office of City Manager may be combined with any other office of the city, in which event the City Manager shall perform the duties of such other office as may be assigned to him by the City Council.

('89 Code, § 2-157)

***Statutory reference:***

*For similar provisions, see G.S. § 160A-147*

**§ 2-158 TERM; COMPENSATION.**

The City Manager shall be appointed to serve at the pleasure of the City Council and shall receive such compensation as the Council shall by ordinance determine.

('89 Code, § 2-158)

**§ 2-159 DUTIES.**

The duties of the City Manager shall be to:

(A) See that all laws and ordinances of the city are enforced;

(B) Exercise control over all departments and appoint, supervise and remove department heads and subordinate employees of the city;

(C) Make such recommendations to the Council concerning the affairs of the city as may seem to him desirable;

(D) Keep the Council advised of the financial condition and future needs of the city;

(E) Prepare the budget annually, submit it to the Council and be responsible for its administration

after adoption by the Council;

(F) Prepare and submit to the Council reports as may be required by the Council;

(G) Keep the public informed through reports to the Council regarding the operation of the city government;

(H) Perform such other duties and functions as the Council may prescribe.

('89 Code, § 2-159)

**Statutory reference:**

*Powers and duties of the City Manager, see G.S. § 160A-148*

***DIVISION 3 CITY ENGINEER***

**§ 2-176 APPOINTMENT.**

The City Manager may appoint a City Engineer who shall be directly responsible to the City Manager and act as the department head over the Engineering Department.

('89 Code, § 2-176)

**§ 2-177 QUALIFICATIONS.**

The City Engineer shall possess not less than five years of responsible civil, municipal or related engineering experience, shall be a licensed and registered professional engineer in the state or be eligible for such registration and license, and shall be physically fit to perform any arduous activity required in the carrying out of his duties.

('89 Code, § 2-177)

**§ 2-178 DUTIES.**

Generally, the duties of the City Engineer are to plan, organize, coordinate and direct the execution of municipal engineering projects, construction and other activities directly related to engineering including but not limited to the following:

(A) *Construction projects.*

(1) *Using municipal forces.* The Engineer is responsible for the following: surveys, collection and preparation of engineering data, necessary tests or studies, project designs, cost estimates, plans and specifications, assistance with purchase of supplies and materials and active supervision of construction.

(2) *Contract work.* The Engineer is responsible for the following: surveys, collection and

preparation of engineering data, necessary tests or studies, project design, cost estimates, plans and specifications, assistance with preparation of bids and awarding contracts, inspections during construction and certification after work has been properly completed.

(3) *Use of consulting engineer.* The City Engineer shall recommend, through conferences with the City Manager, the employment of consulting engineers for the design and active supervision of construction projects requiring the special knowledge and skills of a consultant. When a consulting engineer is employed for a particular project, it is the responsibility of the City Engineer to advise and assist the City Manager and City Council in reaching a firm agreement with the consultant for the work to be performed by the consultant. The City Engineer may assist the consultant by furnishing data or other information to the extent that may be agreed upon at the time the contract for the consulting engineering work is signed.

(B) *Maintenance programs.* The City Engineer is responsible for assisting other departments in planning, coordinating and executing a maintenance program for all public facilities. The Engineer is responsible for providing technical assistance to various departments concerning materials and equipment needed and the proper procedures and techniques employed to carry out an effective maintenance program for all municipal facilities.

(C) *Maps and records.* The City Engineer is responsible for the preparation of all municipal maps and for the safekeeping of all engineering project plans, specifications and files. To establish a standard procedure for mapping the following mapping criteria shall be used:

(1) *Subdivision plats.* All subdivision plats shall be submitted in accord with G.S. § 47-30, as amended.

(2) *Property map.* Property maps not intended for recordation shall be in accord with G.S. § 47-30(c) and (d) except that the bar graph and surveyor's certificate may be omitted.

(3) *Easement and right-of-way maps.* Easement and right-of-way maps shall depict metes and bounds data as required under G.S. § 47-30. Data required shall show minimum information as stated for property maps. However, centerlines of specific utilities are to be related to property lines where a delimiting line is crossed. Where existing utilities are related to the project, these shall be tied to the survey so accurate drawings may be produced.

(4) *Construction drawings.* Construction drawings shall show in addition to all standard data of the trade, all affected utilities owned by the city or any other public utility. Where access is provided to the utility, elevations of utility structures, conduits, conveyance pipe, etc., shall be obtained and shown in plans and profile according to standard methods relating to the trade.

(5) *Display of data; north arrow.* All data shown shall be displayed in such a manner to allow the viewer to read from the bottom or the right side of the map. All subdivision plats, property maps and any easement or right-of-way maps which are recorded shall have a north arrow positioned so as to conform as nearly as possible with the right edge of the map or plat, such arrow to indicate north to be towards the top of such plat or map.

(6) *Bench marks.* Bench marks related to mean sea level shall be required for all construction purposes including but not limited to mapping. All elevations shall be related citywide and to any city utility extended beyond the corporate limits.

(7) *Grid system.* Determination in conference with the City Engineer will be made as to whether any available grid system shall be tied to. However, no such determination shall invalidate any section of G.S. § 47-30.

(8) *Scales.* Scales should not be greater than one inch equals 100 feet in order that details not be lost. Scales chosen should be commensurate with details to be shown.

(9) *Compliance.* Any person preparing maps and project engineering plans for the development of subdivisions or the alteration or construction of streets, water or sewer lines in the city shall comply with the requirements of subsection (C).

(10) *Unscheduled items.* Items not covered by this subsection shall be finalized in cooperation with the City Engineer, and are to be related to standard practices according to the trade.  
(89 Code, § 2-178)

**§ 2-179 ASSISTANTS.**

Nothing in this division shall prevent the City Manager from hiring one or more assistant city engineers, upon approval of the City Council, with or without the qualifications specified in § 2-177, to perform one or more of the duties set forth in this division.  
(89 Code, § 2-179)

***DIVISION 4 ACCIDENT INVESTIGATION COMMITTEE***

**§ 2-185 CREATED.**

There is hereby established a committee to serve as an impartial review board for accidents involving city personnel and to be known as the Employee Accident Committee of the City of Eden, hereinafter referred to as the Committee.  
(Ord. passed 6-18-91)

**§ 2-186 COMPOSITION; APPOINTMENT AND QUALIFICATIONS OF MEMBERS.**

The Accident Investigation Committee shall be composed of six members and two alternate members all of whom shall be appointed by the City Council. One member shall be a member of the City Council, two members and the two alternates shall be non-supervisory city employees, one member shall be recommended by the City Manager, one shall be a citizen of the city not employed by the city

and one member shall be a police officer.  
(Ord. passed 6-18-91)

### **§ 2-187 TERMS OF MEMBERS.**

Members of the Committee shall be appointed for a term of one year. Vacancies occurring for reasons other than expiration of terms shall be filled by the City Council as they occur for the period of the unexpired term.  
(Ord. passed 6-18-91)

### **§ 2-188 QUORUM.**

A quorum of five members shall be necessary to take any official action.  
(Ord. passed 6-18-91)

### **§ 2-189 COMPENSATION OF MEMBERS.**

Members of the Committee shall serve without compensation.  
(Ord. passed 6-18-91)

### **§ 2-190 OFFICERS; MEETINGS**

As soon as possible after their appointment and at the time and place designated by the City Council, the members of the Committee first appointed shall meet and organize. The City Council representative shall be the chairman. From among the members, the Committee shall elect a vice-chairman and a secretary and shall adopt rules and procedures in accordance with the City Charter, City Code, state and federal law and subject to City Council approval. The Committee shall have a regularly scheduled meeting time during normal working hours and shall meet often enough to deal with the issues put before it.  
(Ord. passed 6-18-91)

### **§ 2-191 POWERS AND DUTIES.**

The Committee shall serve in an advisory capacity to the City Manager reviewing information pertinent to all incidents pertaining to the injury to property or persons involving a city employee and or city equipment or vehicles. The Committee shall make a nonbinding recommendation to the City Manager as to disciplinary action against the subject employee.  
(Ord. passed 6-18-91)

## ARTICLE V: FINANCE

### Section

#### *Division 1 Generally*

2-196 Processing fee for returned checks

#### *Division 2 Sale of Surplus Property*

2-211 Authorization of City Manager

2-212 Disposition

2-213 Report

#### ***DIVISION 1 GENERALLY***

### **§ 2-196 PROCESSING FEE FOR RETURNED CHECKS.**

(A) The city shall charge and collect a processing fee in the amount of \$25 on each check negotiated to it on which payment has been refused by the payor bank because of insufficient funds or because the drawer did not have an account at that payor bank.

(B) Signs shall be posted, pursuant to the provisions of G.S. § 25-3-506, giving notice that the city charges such processing fee and that notice of such processing fee may be mailed as provided in G.S. § 25-3-506.

('89 Code, § 2-196) (Ord. passed 3-20-84; Am. Ord. passed 3-16-99;)

***Statutory reference:***

*Collection of processing fee for returned checks, see G.S. § 25-3-506*

#### ***DIVISION 2 SALE OF SURPLUS PROPERTY***

### **§ 2-211 AUTHORIZATION OF CITY MANAGER.**

The City Manager is hereby authorized, pursuant to G.S. § 160A-266(c), to dispose of any surplus personal property owned by the city whenever he determines, in his discretion, that:

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

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

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

('89 Code, § 2-211) (Ord. passed 11-18-86; Am. Ord. passed 4-20-99)

**Statutory reference:**

*Methods of sale, see G.S. § 160A-266*

**§ 2-212 DISPOSITION.**

(A) The City Manager may dispose of any surplus personal property by any means which he judges reasonably calculated to yield the highest attainable sale price in money or other consideration, including but not limited to the methods of sale provided in G.S. § 160A-265 *et seq.* Such sale may be public or private, and with or without notice and minimum waiting period.

(B) The surplus property shall be sold to the party who tenders the highest offer, or exchanged for any property or services useful to the city if greater value may be obtained in that manner, and the City Manager is hereby authorized to execute and deliver any applicable title documents. If no offers are received within a reasonable time, the City Manager may retain the property, obtain any reasonably available salvage value, or cause it to be disposed of as waste material. No surplus property may be donated to any individual or organization except by resolution of the City Council.

('89 Code, § 2-212) (Ord. passed 11-18-86)

**§ 2-213 REPORT.**

The City Manager shall, on or before the first day of February, report in writing to the City Council on any property disposed of pursuant to this division from July 1 through December 31 of the previous year, and shall, on or before the first day of August, report in writing to the City Council on any property disposed of under these provisions from January 1 through June 30 of that year. The written report shall generally describe the property sold or exchanged, to whom it was sold, or with whom exchanged, and the amount of money or other consideration received for each sale or exchange since the last such report was submitted.

('89 Code, § 2-213) (Ord. passed 11-18-86)

**Statutory reference:**

*Similar provisions, see G.S. § 160A-266(c)*

## ARTICLE VI: CODE OF ETHICS

### Section

2-215	Definitions
2-216	Conducting business through partnerships, professional corporations, or other entities
2-217	Standards of conduct
2-218	Prohibition of conflict of interest
2-219	Disclosure of conflict of interest
2-220	Substantial interest of a relative
2-221	Misuse of official information
2-222	Severability
2-223	Exemptions
2-224	Penalty

### § 2-215 DEFINITIONS.

As used in this article the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

**AFFECTED.** In the case of a person entity or property means that it is reasonably likely that such person, entity or property will be subject to a direct economic effect or consequence, either positive or negative, as a result of a vote, decision, approval of a contract, entering into a contract, granting of a license, granting of a franchise or other action that such is one of the causes producing such economic effect or consequence.

**CITY.** The City of Eden, North Carolina.

**CITY EMPLOYEE or EMPLOYEE.** Any person employed by the city, including but not limited to the City Manager, Assistant City Manager, all department heads, deputy or assistant department heads, and all other persons holding positions designated by the city code and the position classification plan and pay plan, unless such person is exempt from the provisions of this article by § 2-223 Exemptions.

**CITY OFFICIAL or OFFICIAL.** Unless the context clearly indicates a different meaning is intended or unless exempted from the provisions of this article by § 2-22 Exemptions or unless otherwise expressly defined, means the Mayor, members of the City Council, City Clerk, Deputy or Assistant City Clerk, City Attorney, whether such person is hired, appointed or elected, and all other persons holding positions designated by North Carolina General Statutes, the City Charter, or by the City Code.

**DECISION.** Any ordinance, resolution, contract, permit, franchise, formal action or other matter voted on by the City Council, as well as the discussions or deliberations of the City Council which can or may lead to a vote or formal action by the City Council. **DECISION** also means any action taken by a city employee in which the employee exercises discretionary authority, including but not limited to the issuance of permits, imposition or collection of fines or fees, authorization for expenditures, and other nonministerial acts.

**DISCRETIONARY AUTHORITY.** The power to exercise any judgment in a decision or action.

**ENTITY.** A sole proprietorship, partnership, firm, corporation, professional corporation, holding company, joint stock company, receivership, trust or any other entity recognized by law through or by which business may be conducted.

**MINISTERIAL ACT.** An act performed in a prescribed manner and not requiring the exercise of any judgment or discretion.

**SUBSTANTIAL INTEREST.** An interest in another person or an entity if: the interest is ownership of 5% or more of the voting stock, shares or equity of the entity or ownership of \$5,000 or more of the equity or market value of the entity; or funds received by the person from the other person or entity either during the previous 12 months or the previous calendar year equaled or exceeded \$5,000 in salary, bonuses, commissions or professional fees or \$20,000 in payment for goods, products or nonprofessional services, or 10% of the recipient's gross income during that period, whichever is less; the person serves as a corporate officer or member of the board of directors or other governing board of the for-profit entity other than a corporate entity owned or created by the City Council; or the person is a creditor, debtor, guarantor of the other person or entity in an amount of \$5,000 or more.

**SUBSTANTIAL INTEREST IN REAL PROPERTY.** An equitable or legal ownership of an interest in real property.  
(Ord. passed 6-16-92)

## **§ 2-216 CONDUCTING BUSINESS THROUGH PARTNERSHIPS, PROFESSIONAL CORPORATIONS, OR OTHER ENTITIES.**

If a city official or employee is a member of a partnership or professional corporation, or conducts business through another entity, an interest in the partnership, professional corporation, or entity shall be deemed to be a substantial interest of the city official or employee if:

(A) The partnership or professional corporation has fewer than 20 partners or shareholders; or

(B) Regardless of the number of partners or shareholders, the official or employee has an equity interest, share, or draw equal to or greater than 5% of the capital or revenues of the partnership, professional corporation, or other entity.

(Ord. passed 6-16-92)

**§ 2-217 STANDARDS OF CONDUCT.**

(A) No city official or employee shall transact any business in his official capacity with any entity in which he has a substantial interest.

(B) No city official or employee shall represent, for compensation, any other private person, group or entity before any department, commission, board or committee of the city.

(C) No city official or employee shall represent, directly or indirectly, any other private person, group or entity in any action or proceeding against the interest of the city, or in any litigation in which the city or any department, commission, or board or committee thereof is a party; provided, however, that nothing herein shall limit the authority of the City Attorney and his staff to represent the city, its boards, commissions, committees and officers.

(D) No city official or employee shall represent, directly or indirectly, any other private person, or any group or entity in any court action or proceeding which was instituted by a city official or employee in the course of his or her official duties.

(E) No city official shall represent any other private person, or any group or entity in any action or proceeding in any court which was instituted by or is arising from a decision of a city board, commission, committee, task force or other body on which the official serves.

(F) No city official or employee shall accept or solicit any gift or favor that might reasonably tend to influence that individual in the discharge of official duties or that the official or employee knows or should know has been offered with the intent to influence or pay for official conduct.

(G) (1) No city official or employee shall solicit or accept other employment to be performed or compensation to be received while still a city official or employee, if the employment or compensation could reasonably be expected to impair independence in judgment or performance of city duties.

(2) If a city official or employee accepts or is soliciting a promise of future employment from any person or entity who has a substantial interest in a person, entity or property which would be affected by any decision upon which the official or employee might reasonably be expected to act, investigate, advise, or make a recommendation, the official or employee shall disclose that fact to the board or commission on which he serves or to his supervisor and shall take no further action on matters regarding the potential future employer.

(H) No salaried city official or employee shall use his official position to secure a special privilege or exemption for himself or others, or to secure confidential information for any purpose other than official responsibilities.

(I) No city official or employee shall use city facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.

(Ord. passed 6-16-92) Penalty, see § 2-224

**§ 2-218 PROHIBITION OF CONFLICT OF INTEREST.**

(A) A city official or employee may not participate in a vote or decision on a matter affecting a person, entity, or property in which the official or employee has a substantial interest; in addition, a city official or employee who serves as a corporate officer or member of the board of directors of a nonprofit entity may not participate in a vote or decision regarding funding by or through the city of the entity. Where the interest of a city official or employee in the subject matter of a vote or decision is remote or incidental, the city official or employee may participate in the vote or decision and need not disclose the interest.

(B) Remote interest means an interest of a person or entity, including a city official or employee, who would be affected in the same way as the general public. The interest of a Council member in the property tax rate, general city fees, city utility charges, or in comprehensive zoning ordinance or similar decisions is incidental to the extent that the Council member would be affected in common with the general public.

(C) Incidental interest means an interest in a person, entity or property which is not a substantial interest and which has insignificant value.

(D) Disclosure of interest means the disclosure by any city official or employee of a remote interest or an incidental interest is not required, but such disclosure shall not bar that official or employee from participating in a vote or decision, if in fact the interest is remote or incidental.  
(Ord. passed 6-16-92) Penalty, see § 2-224

**§ 2-219 DISCLOSURE OF CONFLICT OF INTEREST.**

(A) A city official shall disclose the existence of any substantial interest he may have in a person, entity or property which would be affected by a vote or decision of the body of which the city official is a member.

(B) A city official shall disclose his membership on any board of directors, or position as an officer, of any nonprofit entity receiving funding by or through the city, if the city official serves on a city body making a decision or recommendation concerning such funding.

(C) The disclosure requirements of this section shall also apply to any city official making a recommendation to any city body concerning any decision affecting any entity in which the city official has a substantial interest, or concerning any nonprofit corporation in which the city official is an officer or member of the governing body.

(D) To comply with this section, a Council member or city official, prior to the vote or decision, shall publicly disclose in the official records of the body the nature and extent of such interests.

(E) To comply with this section, a city employee shall notify his supervisor in writing of any

substantial interest he may have in a person, entity or property which would be affected by an exercise of discretionary authority by the city employee and the supervisor shall reassign the matter.  
(Ord. passed 6-16-92) Penalty, see § 2-224

**§ 2-220 SUBSTANTIAL INTEREST OF A RELATIVE.**

(A) A substantial interest of a spouse of a city official or city employee shall be deemed to apply to that official or employee for the purposes of §§ 2-218 and 2-219 concerning disclosure and refusal or reassignment.

(B) If the spouse of a city official or city employee does business through a partnership or other business entity, the substantial interests of that partnership or business entity shall be deemed under § 2-216 to apply to the city official or employee.

(C) A city official or city employee shall not participate in a vote or decision affecting a substantial interest of a member of the immediate family of such city official or employee as defined by § 10-85(b) of the City Code.

(D) No city official or city employee shall fail to provide information by affidavit or otherwise when required to do so by state laws concerning conflicts of interest. No city official or city employee shall violate any applicable state law provision concerning conflicts of interest.  
(Ord. passed 6-16-92) Penalty, see § 2-224

**§ 2-221 MISUSE OF OFFICIAL INFORMATION.**

No former city official or former city employee shall use any confidential information to which he or she had access by virtue of his or her official capacity and which has not been made public concerning the property, operations, policies, or affairs of the city, to advance any personal financial interests.  
(Ord. passed 6-16-92) Penalty, see § 2-224

**§ 2-222 SEVERABILITY.**

The provisions of this article are severable. If any provision of this article or the applications thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provisions or application.  
(Ord. passed 6-16-92)

**§ 2-223 EXEMPTIONS.**

The following officials and employees are exempt from the provisions of this article.

(A) The members of those boards, commissions and committees which are subject to the provisions of and which are regulated by Article III of Chapter 2 of the City Code.

(B) Volunteer members of the Volunteer Fire Department.

(C) Members of the Police Reserve Corps.

(D) Persons who serve without compensation as volunteer members of any temporary advisory committee created by the City Council.

(Ord. passed 6-16-92)

**§ 2-224 PENALTY.**

Any person, firm or corporation violating any provision of this article shall be fined not less than \$5 nor more than \$500 for each offense, and a separate offense shall be deemed committed on each day during or which a violation occurs or continues.

(Ord. passed 6-16-92)

## ARTICLE VII: MAIN STREET ADVISORY BOARD

### Section

2-230 - 238 Repealed

#### **§ 2-230 CREATED.**

(Ord. passed 9-16-03) (Repealed 07-18-17)

#### **§ 2-231 MEMBERSHIP AND VACANCIES.**

(Ord. passed 9-16-03; Am. Ord. passed 7-20-04) (Repealed 07-18-17)

#### **§ 2-232 ABSENCE AND ATTENDANCE.**

(Ord. passed 9-16-03) (Repealed 07-18-17)

#### **§ 2-233 RULES OF CONDUCT FOR MEMBERS.**

(Ord. passed 9-16-03) (Repealed 07-18-17)

#### **§ 2-234 ORGANIZATION, RULES, MEETINGS AND RECORDS.**

(Ord. passed 9-16-03) (Repealed 07-18-17)

#### **§ 2-235 GENERAL POWERS AND DUTIES.**

(Ord. passed 9-16-03) (Repealed 07-18-17)

#### **§ 2-236 ANNUAL REPORT, BUDGET REQUEST, RECEIPT AND EXPENDITURE OF FUNDS.**

(Ord. passed 9-16-03) (Repealed 07-18-17)

#### **§ 2-237 SPECIAL COMMITTEES.**

(Ord. passed 9-16-03) (Repealed 07-18-17)

#### **§ 2-238 MISCELLANEOUS POWERS AND DUTIES.**

(Ord. passed 9-16-03) (Repealed 07-18-17)

## **ARTICLE VIII: EMERGENCY MANAGEMENT**

### Section

- 2-240 Emergency Management Plan
- 2-241 Plan filed with City Clerk
- 2-242 Delegation of powers
- 2-243 Powers are in addition to other emergency powers
- 2-244 Amendments

### **§ 2-240 EMERGENCY MANAGEMENT PLAN.**

The plan entitled “City of Eden Emergency Operations Plan” dated the April 29, 1999, is hereby adopted as the Emergency Management Plan of the city.  
(Ord. passed 8-17-04)

### **§ 2-241 PLAN FILED WITH CITY CLERK.**

The Emergency Management Plan of the city shall be filed in the office of and maintained by the City Clerk.  
(Ord. passed 8-17-04)

### **§ 2-242 DELEGATION OF POWERS.**

The powers authorized by the Emergency Management Plan, the North Carolina General Statutes and the common law with respect to public emergencies are hereby delegated to the Mayor. In the absence of or disability of the Mayor, said powers are hereby delegated to the City Manager. In the absence of or disability of the Mayor and the City Manager, said powers are hereby delegated to the Fire Chief.  
(Ord. passed 8-17-04)

### **§ 2-243 POWERS ARE IN ADDITION TO OTHER EMERGENCY POWERS.**

The powers authorized and delegated by the Emergency Management Plan are in addition to and not in lieu of any other powers conferred upon local officials by any other laws, rules and regulations of the state.  
(Ord. passed 8-17-04)

**§ 2-244 AMENDMENTS.**

The Emergency Management Plan may be amended from time to time by resolution of the City Council.

(Ord. passed 8-17-04)

## ARTICLE IX: CRIMINAL BACKGROUND CHECKS

### Section

- 2-250 Purpose
- 2-251 Delegation of Authority
- 2-252 Procedure for Evaluation
- 2-253 Confidentiality

#### **§ 2-250 PURPOSE.**

In order to protect the citizens of the city and their properties, the City of Eden deems it a necessary use of its police powers to obtain fingerprints and criminal history checks in evaluating certain applications, including, but not limited to: applications for regular full and part-time employment with the City; applications for coaches, assistant coaches or other volunteers working directly with children participating in City of Eden activities and events; and applications for permits or licenses for adult establishment, dance hall, game room, massage business, pawn broker, peddler, charitable solicitor, magazine solicitor, itinerant merchant, taxi driver, and ABC (local opinion forms). Individuals being considered as final applicants for coaches, assistant coaches or other volunteers working directly with children participating in City of Eden activities and events shall provide a criminal history check as hereinafter provided. (Ord. passed 10-21-08) (Am. Ord. passed 03-22-11; Am. Ord. passed 10-16-2012)

#### **§ 2-251 DELEGATION OF AUTHORITY.**

The City Manager, or designee, is authorized to conduct an investigation of an individual's criminal history when required by the City Code. The individual shall upon request provide fingerprints and all other necessary personal identification, including a birth certificate, social security number, and drivers license, if available, so the city manager or designee, may cause a thorough search to be made of local and state criminal records to determine if the individual has a history of criminal convictions by use of the Division of Criminal Information Network (DCIN). The City of Eden police department shall provide the findings from the use of the DCIN to the city manager, provided that all necessary agreements with the State Bureau of Investigation Criminal Information and Identification Section have been executed. (Ord. passed 10-21-08) (Am. Ord. passed 10-16-2012)

#### **§ 2-252 PROCEDURE FOR EVALUATION.**

(A) If the Criminal History Record Inquiry (CHRI) received from the City of Eden Police Department indicates the existence of a possible record, the City Manager or designee shall verify existence of a

record by either obtaining a certified public record or by submitting a fingerprint card of the individual to the State Bureau of Investigation Criminal Information and Identification Section for verification that the CHRI record belongs to the individual.

(B) If any criminal history check verifies a prior record for the individual, the applicable clerk of court shall be contacted to obtain the record. The City of Eden shall pay the cost of obtaining a criminal history record check; and other than for employment or volunteer purposes, the subject individual shall reimburse the City for said cost.

(C) Any evaluation of a criminal history record for an individual will take into account the nature, circumstances, and time frame of the offense as it relates to the purpose for which the search was originally required.

### **§ 2-253 CONFIDENTIALITY.**

The information provided by the individual and the information obtained by the criminal history check is sensitive information, and parties handling the information shall comply with all laws and regulations concerning non-public confidential information.

(Ord. passed 10-21-08)