

Chapter 2

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ARTICLE I. IN GENERAL

Sec. 2-1. Extraterritorial jurisdiction for zoning, planning and subdivision of land.

(a) The city hereby establishes boundaries for the extraterritorial enforcement of the provisions of this Code and other ordinances of the city concerning zoning, subdivision of land and the municipal planning board.

(b) Such boundaries are delineated on the face of a map entitled: "Extraterritorial Jurisdiction of the City of Cherryville," which is hereby adopted by reference and on file in the community development office.

(Code 1973, § 2-4; Ord. of 11-14-88)

Editor's note—In ordinances adopted November 14, 1988, and September 10, 1990, the city amended and redefined boundaries for the extraterritorial jurisdiction of the zoning ordinance, the subdivision regulations and ordinances creating the planning and zoning commission and the board of zoning adjustment. Such amended and redefined boundaries are described in that ordinance, which has not been set out herein, but which may be found on file in the community development office. Such boundaries are also delineated on a map entitled "Amended Extraterritorial Jurisdiction Boundary Line, of the City of Cherryville, N.C.," which is incorporated in the ordinance of November 14, 1988, by reference, and a copy of which may also be found on file in the community development office.

State law reference—Extraterritorial jurisdiction, G.S. 160A-360 et seq.

Secs. 2-2—2-35. Reserved.

ARTICLE II. MAYOR AND CITY COUNCIL

DIVISION 1. GENERALLY

Sec. 2-36. Residency requirement for holders of public offices.

No person shall hold any public office unless he shall be a qualified voter of the city.

(Code 1973, § 2-1)

Charter reference—Residency requirements, §§ 3.3, 5.1, 6.1, 10.3.

State law references—Qualifications for elective office, G.S. 160A-59; qualifications for appointive office, G.S. 160A-60.

Sec. 2-37. Composition of governing body.

The governing body of the city shall consist of a mayor and four councilmembers.

(Code 1973, § 2-5)

Charter reference—Composition of city council, § 3.1.

State law reference—Composition of council, G.S. 160A-66.

Sec. 2-38. Oaths of mayor and councilmembers.

The mayor and each member of the city council shall take the oath prescribed by the constitution of the state.

(Code 1973, § 2-2)

Charter reference—Oath of office, § 3.4.

State law reference—Oath of office, N.C. Const. art. VI, § 7, G.S. 160A-61.

Sec. 2-39. Duties of mayor.

It shall be the duty of the mayor:

- (1) To preside over the meetings of the city council.
- (2) To appoint various committees.
- (3) To sign, with the clerk and treasurer, all warrants or orders for the payment of public funds.

(Code 1973, § 2-6)

Charter reference—Duties of mayor, § 3.2.

State law reference—General powers of mayor, G.S. 160A-67.

Sec. 2-40. Duties of councilmembers.

The councilmembers' duties and powers are such as are set out by the General Statutes of North Carolina and by the charter of the city.

(Code 1973, § 2-7)

Charter reference—Powers and duties of councilmembers, §§ 3.2 et seq., 5.1 et seq., 6.1, 6.2, 8.1, 8.2, 9.1, 9.2, 11.1, 11.2, 12.1, 12.2.

State law reference—General powers of council, G.S. 160A-67.

Secs. 2-41—2-60. Reserved.

DIVISION 2. MEETINGS*

Sec. 2-61. Time and place of regular meetings.

The regular time and place of meetings of the mayor and city council shall be on the second Monday of each month at 7:00 p.m. at such place as they designate.

(Code 1973, § 2-10)

***Charter reference**—Meetings of council, § 3.5.

State law reference—Regular meetings, G.S. 160A-71.

Sec. 2-62. Adjournment upon failure to have quorum or complete business.

If a quorum shall fail to attend any regular or special meeting of the city council, or if for any reason such meeting shall fail to complete transaction of the business before the meeting, such meeting may be adjourned to any date prior to the next regular meeting agreed upon by a majority of the members present.

(Code 1973, § 2-13)

Charter references—Meetings of council, § 3.5; quorum, § 3.6.

State law references—Recessed and adjourned meetings, G.S. 160A-71; quorum, G.S. 160A-74.

Sec. 2-63. Rules of procedure.

Robert's Rules of Order, current edition, is hereby adopted as the rules of procedure for the city.

(Code 1973, § 2-14)

State law references—Rules of procedure, G.S. 160A-71; quorum, G.S. 160A-74.

Secs. 2-64—2-85. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES*

Sec. 2-86. Compensation of city officials and employees; bond and oath of city officials and employees.

It shall be the duty of the city council to pay such compensation, to require such bond and oath, of all city officials and employees, as they may designate; provided, that such compensation, bond or oath is not fixed by state law or the charter.

(Code 1973, § 2-8)

Charter reference—Oath of office, § 3.4.

State law references—Oath of office, N.C. Const. art. VI, § 7, G.S. 160A-61; compensation of mayor and council, G.S. 160A-64; compensation of city personnel, G.S. 160A-162.

Secs. 2-87—2-110. Reserved.

*Cross reference—Law enforcement, ch. 18.

ARTICLE IV. BOARDS, COMMISSIONS AND COMMITTEES

DIVISION 1. GENERALLY

Secs. 2-111—2-130. Reserved.

DIVISION 2. PLANNING AND ZONING COMMISSION†

Sec. 2-131. Composition.

The planning and zoning commission shall consist of seven members; three of whom shall be residents of the city; three members shall be residents of that area which is within one mile outside the corporate limits of the city; and the city manager who shall serve as ex officio member and shall be the secretary and treasurer of the commission.

(Code 1973, § 2-15)

Charter reference—Extension of corporate boundaries, § 2.2.

State law references—Qualifications for appointive office, G.S. 160A-60; extraterritorial jurisdiction, G.S. 160A-360; extraterritorial representation, G.S. 160A-362.

Sec. 2-132. Appointment of members.

Three members of the planning and zoning commission for that area within one mile of the corporate limits of the city shall be appointed by the board of county commissioners of the county; three members of the planning and zoning commission for that area within the corporate limits of the city shall be appointed by the mayor and approved by the city council members.

(Code 1973, § 2-16)

Charter reference—Extension of corporate boundaries, § 2.2.

State law references—Qualifications for appointive office, G.S. 160A-60; extraterritorial jurisdiction, G.S. 160A-360; extraterritorial representation, G.S. 160A-362.

†State law reference—Planning and regulation of development, G.S. 160A-360 et seq.

Sec. 2-133. Terms of members; filling of vacancies; qualifications; compensation of members.

(a) Each member of the planning and zoning commission shall be appointed for a term of three years. The original appointments shall be made in the following manner:

- (1) Two members for a term of three years;
- (2) Two members for a term of two years;
- (3) Two members for a term of one year each;

with terms to be divided evenly among the city and county members in order that one member from the county area and one from the city will be appointed or reappointed each year. At the expiration of the terms of all members first appointed, all new or reappointed members shall be for a full term of three years. Vacancies occurring otherwise shall be filled for the unexpired term and shall be made by the mayor of the city with the approval of the council.

(b) The members of the planning and zoning commission shall be persons of recognized experience and qualifications and shall hold no other official position except on the board of adjustment or on a housing authority board.

(c) All members of the planning and zoning commission shall serve as such without compensation.

(Code 1973, § 2-17)

State law reference—Extraterritorial representation, G.S. 160A-362.

Sec. 2-134. Election and terms of officers.

(a) The planning and zoning commission shall elect a chairperson, vice-chairperson and such other officials as may be necessary from among its members to serve for a period of one year with eligibility for reelection.

(b) The planning and zoning commission shall hold a meeting for the election of officers at the first meeting in July of every year.

(Code 1973, § 2-18)

Sec. 2-135. Removal of members.

Members may, after public hearing, be removed from the planning and zoning commission

by the mayor for inefficiency, neglect of duty or malfeasance in office. The mayor shall file a written statement of reasons for such removal with the city council prior to such removal.

(Code 1973, § 2-19)

Sec. 2-136. Meetings; adoption of rules for business; records; absenteeism.

(a) The planning and zoning commission shall hold at least one meeting monthly, which shall be held at the city hall and shall be open for public attendance. Such commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which shall be open to the public for viewing.

(b) The membership of any member of the planning and zoning commission who is absent from four consecutive meetings or whose percent of attendance over any period of 12 consecutive months is less than 60 percent, shall automatically be terminated, unless such absence is excused by the full commission for good and sufficient cause.

(Code 1973, § 2-20)

State law references—Public records defined, G.S. 132-1; inspection and examination of records, G.S. 132-6; access to records, G.S. 132-9.

Sec. 2-137. Functions and duties; jurisdiction.

(a) It shall be the function and duty of the planning and zoning commission to make and adopt a master plan for the physical development of the city and to establish zoning districts for the control of the development of the plan, within the city and the area within one mile of the corporate limits of the city.

(b) Such plan with accompanying maps, plats, charts and descriptive matter shall show the commission's recommendations for the development of such territory including, among other things, the general location, character and extent of streets, bridges, waterways, parks, playgrounds, boulevards, parkways and other public ways, grounds and open spaces, the general location of public buildings and other public property and the general location and extent of public utilities

and facilities, whether publicly or privately owned or operated, for water, light, sanitation, gas, transportation, communication, power and other purposes; also the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities or facilities as well as a zoning plan for the control of the height, area, bulk, location and use of buildings and premises.

(c) The commission may, from time to time, amend, extend, or add to the plan or zoning districts.

(Code 1973, § 2-21)

State law reference—Functions of planning and zoning commission, G.S. 160A-361.

Sec. 2-138. Power of commission.

The planning and zoning commission shall act only as an advisory commission and shall have no police powers as such and any master development plan or zoning districts created by such shall have no meaning until adopted by the city council in accordance with G.S. 160A-387.

(Code 1973, § 2-22)

Sec. 2-139. Authority to appoint employees, make contracts or expend funds.

The planning and zoning commission may appoint such employees as it may deem necessary to carry on its work. The commission may also contract with city planners, engineers, architects and other consultants for any such services as it may require; provided, that any expenditure of the commission, exclusive of any from gifts and donations, shall be within the amounts appropriated for that purpose by the city council; and provided, that no indebtedness for which the city shall be liable shall be contracted by the commission without approval of and appropriation by the city council as authorized by G.S. 160A-363.

(Code 1973, § 2-23)

Sec. 2-140. Acceptance and use of gifts and donations.

The planning and zoning commission may accept any or all gifts and donations for the exercise

of its functions and may expend the funds received from such donations as, in its judgment, may best benefit the purpose of the commission. (Code 1973, § 2-24)

State law reference—Authority of planning and zoning commission to accept and use donations or gifts, G.S. 160A-363.

Sec. 2-141. Standards for preparation of master plan and zoning districts.

In the preparation of a master plan and zoning districts described in section 2-137, the commission shall make careful and comprehensive surveys and studies of the present condition and future growth of the city and the area within one mile of the corporate limits of the city, and with due regard to its relation to surrounding territory. Planning and zoning shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of such area and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity and 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 provisions for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good design and arrangement, wise and efficient expenditure of public funds and the adequate provision of public utilities and other public requirements.

(Code 1973, § 2-25)

Sec. 2-142. Adoption of master plan; assistance of city officers and employees.

(a) Before the adoption of a master plan or zoning districts as described in section 2-141 or any part, amendment, extension or addition, the commission shall hold at least one public hearing thereon. The commission shall have power to promote public interest in and understanding of the plan, and, to that end, may publish and distribute copies of the plan or of any report and may employ such other means of publicity and education as it may determine.

(b) Members of the commission, when duly authorized by the council, may attend city planning conferences or meetings of city planning institutes or hearings upon pending city planning legislation, and the council may by approval by vote of the members recorded upon the minutes approve paying the reasonable travel expenses incident to such attendance.

(c) All officers and employees of the city shall render such reasonable assistance and any such information to the planning and zoning commission as may be requested by the commission for its work.

(Code 1973, § 2-26)

State law reference—Public hearings held by commission, G.S. 160A-387.

Secs. 2-143—2-165. Reserved.

DIVISION 3. GASTON COUNTY HISTORIC PROPERTIES COMMISSION

Sec. 2-166. Purpose.

The purpose of establishing the joint county historic properties commission shall be to:

- (1) Safeguard the heritage of the county by preserving any property therein that embodies important elements of its cultural, social, economic, political or architectural history;
- (2) Promote the use and conservation of such property for the education, pleasure and enrichment of the county and the state; and
- (3) Recommend sites for designation as historic properties on the basis of individual merit and historical significance.

(Code 1973, § 2-28)

Sec. 2-167. Composition; term of office.

(a) The commission shall consist of seven members with each one selected by the county commissioners from their respective townships. The

terms of the commission members shall be four years. The three members drawing short straws shall serve an initial term of two years.

- (1) A majority of the members of the historic properties commission shall have demonstrated special interest, experience or education in history, preservation, architecture, real estate or law.
- (2) The historic properties commission shall elect annually a chairperson, vice-chairperson, secretary and treasurer, who shall act as the executive committee.

(b) The seven commission members shall appoint advisory staffs to secure adequate representation from the towns included in their respective townships. The members of the advisory staffs shall be ex officio members of the historic properties commission and shall have no voting power. The size of the advisory staffs shall vary in size, proportionate to the population of the townships. The initial size of the advisory staffs shall be:

- (1) Gastonia Township, five members;
- (2) South Point Township, three members;
- (3) River Bend Township, two members;
- (4) Dallas Township, one member;
- (5) Cherryville Township, one member; and
- (6) Crowders Mountain Township, one member.

(c) The historic properties commission executive committee shall appoint an inventory committee for the purpose of making an index of the historic properties in the county. Those appointed may come from the historic properties commission, the advisory staffs or from the county population at large. The inventory committee shall include no less than three members, one responsible for photographic work. The term is continual and any vacancy may be filled by appointment by the executive committee.

(Code 1973, § 2-29)

Sec. 2-168. Powers and authority.

The joint county historic properties commission shall have all the powers and authority as prescribed in G.S. 160A-399.1—160A-399.13 with the following exceptions:

- (1) The joint county historic properties commission shall have the authority to acquire property designated by ordinance as historic property with any funds which may be appropriated for that purpose.
- (2) All lands, buildings or structures acquired by the joint county historic properties commission, whether from private or public funds, may be acquired and held in the name of the historic properties commission.

(Code 1973, § 2-30)

State law reference—Similar provisions, G.S. 160A-399.8, 160A-399.10.