

CHAPTER 2 - ADMINISTRATION

ARTICLE I. - IN GENERAL

Sec. 2-1. - Open records policy.

The Open Records Policy, as adopted and amended by the Town, is adopted by reference as if fully set forth herein.

Sec. 2-2. - Records management plan.

- (a) *Adoption of records management plan.* Pursuant to the Georgia Records Act, O.C.G.A. § 50-18-90 et seq., the Town adopts the records management plan and record retention schedules for local government recommended by the Georgia Secretary of State as amended from time to time by future resolutions of the Mayor and Council of the Town.
- (b) *Video records.* All video tapes, other than video tapes taken from patrol car video cameras, which are taken from video cameras utilized by the Town shall be retained for a period consistent with system capacity, but in no event less than 72 hours. If the records management plan administrator is notified in writing that a video record contains information relevant to an incident, investigation, or otherwise, such video record shall be retained for a period of five years.
- (c) *Records management plan administrator.* The Town clerk is designated as the person responsible for administration of the records management plan and shall coordinate all records management for the Town including storage, archiving, and destruction of records.
- (d) *Maintenance and security of records.* Records shall be maintained according to approved retention schedules. No record shall be destroyed except as provided in the approved retention schedule; provided, however, a written record may be destroyed if it is otherwise preserved by means of microfiche, scanning, or other reliable photographic or digital means. Changes to the retention schedules shall be adopted by resolution of the Mayor and Council. The Mayor shall immediately prepare guidelines for the maintenance and security of all records covered by this section, and such guidelines shall, upon completion, become a part of the records management plan for the Town.
- (e) *Open Records Act.* All requests for records made under the Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq., shall be made pursuant to the Town of Trion open records policy.

Secs. 2-3—2-18. - Reserved.

ARTICLE II – TOWN COUNCIL

DIVISION 1 – IN GENERAL

Sec. 2-19 – Per diem and travel.

Town Council members shall receive such per diem as is set forth in the Employee Policy and Procedure Manual.

Sec. 2-20. - Subpoenas.

- (a) Any witness who shall fail to respond to a subpoena lawfully issued by or for the Council, or who shall refuse to testify under oath, shall be guilty of contempt.
- (b) The subpoenas referenced in subsection (a) of this section shall bear witness in the name of the Mayor; shall be issued by the Town clerk; and shall be served by the chief of police, any police officer, or by such other person as the Mayor may designate.
- (c) Should any person fail to respond to a subpoena of the Council, after having been lawfully served, without good cause, or should the person refuse to testify under oath, then the Council shall hold the person in contempt and, in its discretion, punish the person by the imposition of a fine according to the maximum allowed by state law. Each of the failures or refusals, herein described, shall constitute a separate contempt.

Secs. 2-21—2-44. – Reserved.

DIVISION 2. –MEETINGS AND PUBLIC HEARINGS; RULES AND PROCEDURES

Sec. 2-45. - Amendments to the rules.

Any amendments to the rules of order shall be submitted by a Councilmember in writing to the Mayor three business days before a regular meeting of the Town Council. The proposed amendment shall be included in the agenda for that meeting and distributed to all Councilmembers. All amendments require a two-thirds vote of the Council to be adopted.

Sec. 2-46. - Suspending the rules of order.

Rules of order may be suspended in the case of an emergency. A motion to suspend the rules requires a second, is debatable, and requires a two-thirds vote of the Council. Rules governing quorums (section 2-53), voting methods and requirements (section 2-58), the notification to Councilmembers of meetings (section 2-48) and rules necessary for compliance with state law or the Town Charter may not be suspended; provided, however, that, in the event that a state of emergency is declared by the governor or other authorized state official, the Town Council may waive time-consuming procedures and formalities imposed by state law.

Sec. 2-47. - Regular meetings, rescheduling meetings.

Regular meetings of the Town Council shall be held at 6:00 p.m. on the fourth Thursday of each month. If the regular meeting falls on a federal holiday, the Council may reschedule the meeting to the next Monday and publish the time change. Any meeting of the Council may be continued or adjourned from day to day, or for more than one day, but no adjournment shall be for a longer period than until the next regular meeting thereafter. All regular meetings shall be held at Town hall in the Council meeting room.

State law reference— Open and public meetings, O.C.G.A. § 50-14-1(d).

Sec. 2-48. - Rescheduled meetings.

A regular meeting may be canceled, rescheduled, recessed or moved to a new location within the Town site by the Mayor for any reason. In addition to the notice required by O.C.G.A. § 50-14-1, written or oral notice shall be given by the clerk at least 24 hours in advance of the meeting to the legal organ of the Town, as well as to each member of the Town Council.

State law reference- Operation of government bodies during emergency, O.C.G.A. §§ 38-3-54, 38-3-55.

Sec. 2-49. - Executive sessions.

Executive sessions of the Council may be held for the purpose of discussing topics exempted from public access requirements by O.C.G.A. title 50, ch. 14 (O.C.G.A. § 50-14-1 et seq.). Any portion of the meeting not subject to any such exemptions shall be open to the public.

- a) *Nonexempt topics.* If a Councilmember attempts to discuss a nonexempt topic during an executive session, the Mayor shall immediately rule that Councilmember out of order and such discussion shall cease. If the Councilmember persists in discussing the nonexempt topic, the Mayor shall adjourn the meeting immediately.
- b) *Procedure for entering into executive sessions.* No executive session shall be held except pursuant to a majority affirmative vote of the Town Council taken in a public meeting. The minutes of the public meeting shall reflect the names of the Councilmembers present, those voting for the executive session, and the specific reasons for the executive session. All votes taken on items discussed in executive session shall be taken in an open meeting.
- c) *Executive session minutes.* Minutes of executive sessions devoted to any topic other than land acquisition may be maintained by the clerk at the direction of the Mayor. Any such minutes shall be maintained in a confidential file and shall not be subject to disclosure, except that disclosure of such portions of minutes identifying real estate to be acquired by the Town Council, may only be delayed until such time as the acquisition of the real estate has been completed, terminated, or abandoned or court proceedings have been initiated.
 - (1) *Executive sessions discussing real estate acquisition.* Minutes of an executive session in which the acquisition of real estate is discussed shall be taken in the same manner as minutes of an open

meeting and available for public inspection except that any portion of the minutes identifying the real estate shall be redacted until such time as the action for acquisition of the real estate is taken, or decision is reached that the proposed acquisition is to be terminated or abandoned or until court actions are to be initiated through the use of condemnation proceedings.

(2) *Other executive sessions.* Minutes of executive sessions devoted to any topic other than land acquisition may be maintained by the clerk at the direction of the Mayor. Any such minutes shall be maintained in a confidential file and shall not be subject to disclosure, except that disclosure of such portions of minutes identifying real estate to be acquired by the Town Council may only be delayed until such time as the acquisition of the real estate has been completed, terminated, or abandoned or court proceedings have been initiated.

d) *Mayor or presiding officer affidavit.* The Mayor or other presiding officer shall execute an affidavit stating, under oath, that the executive session was devoted to topics exempt from the public access requirements. The affidavit shall include the specific exemption to the open meetings law. The affidavit shall be notarized and filed with the minutes of the open meeting.

State law reference— Closed meetings, O.C.G.A. § 50-14-4

Sec. 2-50. - Mayor; presiding officer.

The presiding officer of the Town Council shall be the Mayor except as otherwise provided in the Charter. The presiding officer is responsible for the orderly conduct of the meeting. In order to fulfill this duty, the presiding officer shall enforce the rules of procedure that are adopted by the Town Council. The presiding officer shall be impartial and conduct the meetings in a fair manner. The Mayor may not introduce motions or second motions except that the Mayor may introduce or second a motion to go into executive session as authorized by Section 2-49. The Mayor shall vote only in the case of a tie or in the case where his vote will provide the third affirmative vote required for approval of a matter.

Sec. 2-51 - Emergency powers of Mayor.

(a) In the event of a public emergency which shall threaten the public health, public safety, public property, or public peace of the Town of Trion, which shall include such shortages of such public utilities as water, natural gas, fuels and energy sources and electricity that directly affect the Town, the Mayor, or in the event of his absence or incapacity, Mayor pro tem, is authorized and directed to take such action that is within the power and authority vested by law in the governing body of the Town, as is necessary to protect and preserve life and property in any such emergency event. This authority shall include the power:

- (1) To mobilize and direct all of the personnel employed by said Town and those who shall volunteer for service;
- (2) To enlist the assistance of others;
- (3) To allocate apportion, ration and cut off the physical resources of the Town necessary to protect, preserve and maintain the public health, public safety, public property or public peace of the Town.

(b) In the event of such emergency, the Mayor, or the Mayor pro tem, shall call a special meeting of the Town Council, as quickly as is practical, to advise them of the situation, what action was taken and of any proposed action. At such meeting, the Town Council shall either ratify, approve, modify, substitute or terminate such action and emergency plan of action proposed by or on behalf of the Mayor, whose subsequent actions shall be governed by the authorizations, directions or limitations then enacted by the Town Council.

Sec. 2-52. - Mayor pro tempore.

Following the induction of the Mayor and Council members, the Town Council, by a majority vote of the Councilmembers, shall elect a Councilmember to be Mayor pro tempore, who shall serve for a term of four years and until a successor is elected and qualified. The Mayor pro tempore shall assume the duties and powers of the Mayor during the Mayor's disability or absence, except that the Mayor pro tempore shall continue to vote as a Councilmember and may not exercise the Mayor's prerogative to vote in the case of a tie. During the Mayor's disability or absence, the Mayor pro tempore may veto any action of Council. If the Mayor pro tempore is absent because of sickness or disqualification, any one of the remaining Councilmembers, chosen by the members present, shall be clothed with all the rights and privileges of the Mayor and shall perform the Mayor's duties in the same manner as the Mayor pro tempore.

Sec. 2-53. - Parliamentarian.

The Town attorney shall serve as the parliamentarian for Town Council meetings.

Sec. 2-54. - Quorum.

A quorum must be present for conducting meetings of the Town Council. A quorum is three (3) members of the Town Council. It is the duty of the Mayor or presiding officer to enforce this rule. Any Councilmember may raise a point of order directed to the Mayor or presiding officer if he believes that a quorum is not present. If, during the course of a meeting, a Councilmember or Councilmembers leave and a quorum no longer exists, the meeting may not continue. If a quorum is not attained within 30 minutes, the meeting may be rescheduled by the Mayor or presiding officer with the approval of the Councilmembers present.

Sec. 2-55. - Order of business.

All regular Town Council meetings shall substantially follow an established order of business. The order shall be as follows:

- (1) Call to order.
- (2) Roll call.
- (3) Invocation.
- (4) Pledge of Allegiance.
- (5) Approval of meeting agenda.
- (6) Consent Agenda
- (7) Reports and presentations.
- (8) Unfinished business.
- (9) New business.

Sec. 2-56. - Agenda.

The Mayor shall prepare an agenda of subjects to be acted on for each meeting. Work session topics and Council agenda items shall be submitted consistent with the attached process. The agenda shall be made available to the Town Council at least seventy two (72) hours before every Town Council meeting.

- (a) *Requests for agenda items.* Members of the public may request that a particular subject be placed on the agenda for a meeting. To be considered, this request shall be submitted in writing to the Mayor.
- (b) *Changing the agenda.* The order of the agenda may be changed during a meeting by a majority vote of the Town Council. A new item, other than a zoning decision, may be added to the agenda by a majority vote of the Town Council, only if it becomes necessary to address the item during the meeting. An existing item may be removed from the agenda by the majority vote of the Town Council.
- (c) *Agenda must be made public.* The agenda of all matters to come before the Town Council shall be made available to the public upon request and shall be posted at the meeting site as far in advance as reasonably possible, but not more than two weeks prior to the meeting, not less than 24 hours prior to the start of the meeting.

State law reference— Agendas, O.C.G.A. § 50-14-1.

Sec. 2-57. - Consent agenda.

A consent agenda may be prepared by the Mayor for the Town Council to unanimously adopt motions on routine items. Any items of business that are expected to receive unanimous approval without debate may be placed on a consent agenda. At the appropriate time of the meeting, the Mayor shall read all of the items on the consent agenda. If a Councilmember objects to an item being on the consent agenda, the Councilmember shall direct the move of that particular item to the regular agenda. Following the reading of the consent agenda, the Mayor may ask for unanimous approval of the items on the consent agenda. If there are no objections, all the items on the consent agenda shall be approved by a majority vote of the Town Council.

Sec. 2-58. - Decorum.

All Councilmembers shall conduct themselves in a professional and respectful manner. All remarks shall be directed to the Mayor and not to individual Councilmembers, staff, or citizens in attendance. Personal remarks are inappropriate and may be ruled out of order. A Councilmember may not speak at a meeting until he has been recognized by the Mayor. All comments

made by a Councilmember shall address the motion that is being discussed. The Mayor shall enforce these rules of decorum. If a Councilmember believes that a rule has been broken, he may raise a point of order. A second is not required. The Mayor may rule on the question or may allow the Town Council to debate the issue and decide by majority vote.

Sec. 2-59. - Voting.

Passage of a motion shall require the affirmative vote of at least three persons voting, and must receive the affirmative vote of a majority of those voting at which a quorum is present. Unless otherwise specified in the Charter as it pertains to voting by the Mayor, a majority shall mean at least one-half of the Councilmembers present plus one Councilmember, excluding abstentions. When a two-thirds majority is specified, a majority vote shall mean at least two-thirds of the Councilmembers present excluding abstentions. In the event of a tie vote, the Mayor shall vote to break the tie.

Sec. 2-60. – Reserved.

Sec. 2-61. - Public participation.

Public participation in meetings of the Town Council shall be permitted in accordance with the following provisions:

- (a) *Public comments.* The final agenda item of the meeting shall be reserved for comments from the public. All members of the public wishing to address the Town Council shall submit their name and the topic of their comments to the Town clerk prior to the start of any meeting held by the Town Council; provided, however, that if the applicants of rezoning actions or individual who wish to oppose a rezoning action has contributed more than \$250.00 to the campaign of a Councilmember, the individual shall file a campaign disclosure form as required by O.C.G.A. § 36-67A-3 at least five calendar days prior to the first hearing by the Town Council. Individuals may be allotted five minutes to make their comments and those comments shall be limited to their chosen topic. These limits may be waived by a majority vote of the Town Council.
- (b) *Agenda items considered by Council.* By a majority vote, the Town Council may allow public comment on an agenda item at the time the item is being considered by the Town Council. These comments shall be limited to the subject that is being debated. Members of the public may speak for five minutes and may speak only once. These limits may be waived by a majority vote of the Town Council. Anyone wishing to speak at any Town Council meeting must be recognized by the Mayor before addressing the Town Council.
- (c) *Decorum.* Members of the public shall not make inappropriate or offensive comments at a Town Council meeting and are expected to comply with the rules of decorum that are established for Councilmembers. Individuals violating any rules of the Town Council may be ruled out of order by the Mayor or on a point of order made by a Councilmember. A majority vote of the Town Council shall rule on the point out of order. An individual violating the rules of decorum may be removed from the meeting at the direction of the Mayor.
- (d) *Public hearings.* The Town Council may schedule public hearings for the purpose of soliciting public comment on any subject of interest to the Town Council. Hearings may be held immediately prior to, during or following a meeting of the Town Council or at such other places and times as the Town Council may determine. Hearings require at least ten minutes per side. These limits may be waived by a majority vote of the Town Council. No official action shall be taken at any such public hearing. Hearings on zoning decisions shall be governed in accordance with the zoning policies and procedures.

State law reference— Notice and hearing regarding zoning decisions, O.C.G.A. §§ 36-66-4, 36-66-5.

Sec. 2-62. - Minutes.

- (a) More detailed information than required by O.C.G.A. § 50-14-1 may be included in the minutes at the request of the Town Council.
- (b) The Town Council shall approve the minutes before they may be considered as an official record of the Town Council. The minutes shall be open for public inspection once approved as official by the Town Council but in no case later than immediately following the next regular meeting of the Town Council. A copy of the minutes from the previous meeting shall be distributed to the Town Council at least one business day before the following meeting. The minutes of the previous meeting shall be corrected, if necessary, and approved by the Town Council at the beginning of each meeting. A majority vote is required for approval. Conflicts regarding the content of the minutes shall be decided by a majority vote. Upon being approved, the minutes shall be signed by the Mayor and attested to by the clerk of the Town Council.

Sec. 2-63. – Rules and Procedures of Town Council meetings.

The provisions of this division shall serve as the rules and procedures of the Town Council. In the absence of applicable rules and procedures, which may from time to time be encountered during the public meetings, Robert's Rules of Order shall be followed.

Secs. 2-64—2-80. - Reserved.

ARTICLE III – OFFICERS AND EMPLOYEES

DIVISION 1. – GENERALLY

Secs. 2-81 – 2-111 - Reserved.

DIVISION 2. – CODE OF ETHICS

Sec. 2-112 – Intent.

It is essential to the proper administration and operation of the Town of Trion that the members of its governing authority be, and give the appearance of being independent and impartial; that public office not be used for private gain; and that there be a public confidence in the integrity of the governing authority. The governing authority finds that the public interest required that they protect against such conflicts of interest by establishing appropriate ethical standards with respect to the conduct of the members of the governing authority in situation where a conflict may exist.

(Ord. of 6-24-2004(2), §1)

Sec. 2-113 – Definitions.

The following words, terms and phrases, when used in this division, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Complaint means a written sworn statement filed with the Mayor or Mayor Pro Tem containing specific allegations of misconduct by a member; provided, however, such allegations must be filed within six months of discovery of the alleged misconduct.

Interest means any direct pecuniary benefit which is not remote interest held by or accruing to a member of the governing authority as a result of a contract or transaction that is or may be the subject of an official act or action by or with the Town. A member of the governing authority shall be deemed to have an interest in transactions involving:

- (1) Any person in the member's immediate family;
- (2) Any person with whom a contractual relationship exists whereby the member may receive any payment or other benefits unless the member is receiving a benefit for goods or services in the normal course of business for which the member has paid a commercially reasonable rate;
- (3) Any business in which the member is a director, officer, employee, agent, or shareholder, except as otherwise provided herein; or,
- (4) Any person of whom the member is a creditor, whether secured or unsecured.

Governing authority and *member of governing authority* mean the Mayor or any Council member of the Town and any member appointed to any board or commission of the Town.

(Ord. of 6-24-2002, §2)

Sec. 2-114 – Prohibitions.

No member of the governing authority shall:

- (1) By conduct give reasonable basis for the impression that any person can improperly influence him/her or unduly enjoy his/her favor in the performance of official acts;

- (2) Directly or indirectly request, exact, receive, or agree to receive a gift, loan, favor, promise, or thing of value for him/herself or another person if it could reasonably be considered to influence the member in the discharge or official duties. However, this section shall not apply in the case of:
 - (a) An occasional non-pecuniary gift of insignificant value;
 - (b) An award publicly presented in recognition of public service;
 - (c) A commercially reasonable loan or other financial transaction made in the ordinary course of business by an institution or individual authorized by the laws of Georgia to engage in the making of such a loan or financial transaction;
 - (d) Campaign contributions made and reported in accordance with Georgia law;
- (3) Disclose or otherwise use confidential information acquired by virtue of his/her official position for his/her or another person's private gain;
- (4) Use his/her official position to attempt to secure privileges that are not available to the general public;
- (5) Engage in, accept employment with, or render services for any private business or professional activity when such employment or rendering of services is adverse to or incompatible with the proper discharge of official duties; however, this subsection shall not apply to a member of the governing authority who is a licensed professional and appears on behalf of any applicant in such professional capacity so long as disclosures required by section 2-115 are made to the Council or Mayor 30 days prior to any action being taken, and the member is associated with the project at the time the initial application is filed;
- (6) Engage in any activity or transaction that is prohibited by law now existing or hereafter enacted which is applicable to him/her by virtue of being a member of the governing authority;
- (7) Use his/her position to request or require an employee to:
 - (a) Do clerical work on behalf of the member's family, business, social, church or fraternal interest when such work is not furthering a Town interest;
 - (b) Perform any work outside the employee's normal course of municipal employment;
 - (c) Purchase goods or services to be used for personal, business or political purposes; and,
 - (d) Work for the member personally without paying the employee just compensation;
- (8) Use government property of any kind for other than officially approved activities, nor shall he/she direct employees to use such property for any purposes other than those officially approved;
- (9) Use his/her position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to himself/herself or persons having an interest.

(Ord. of 6-24-2004(2), §3)

Sec. 2-115 – Disclosure of conflicts of interest.

An appointed member of the governing authority who has an interest that he/she has reason to believe may be affected by his/her official acts or actions or by the official acts or actions of the governing authority shall disclose the precise nature of such interest by written or verbal statement 30 days prior to the governing authority's taking official action on a matter affecting such interest and shall abstain from discussion and voting. An elected member of the governing authority shall disclose the nature of any interest he/she has at the time such matter is presented to the Mayor and Council for discussion. Such written and verbal statements shall be recorded into the minutes of the meeting and thus become part of the public record. Following any disclosure made pursuant to this section, the member shall refrain from all ex parte communications with other members regarding the application in which he/she has an interest.

(Ord. of 6-24-2004(2), §4)

Sec. 2-116 – Disqualification.

A member of the governing authority shall disqualify himself/herself from participating in any official act or action of the Town that results in a pecuniary benefit to the member or a business activity in which he/she has an interest, when such benefit is not available to the public at large.

(Ord. of 6-24-2004(2), §5)

Sec. 2-117 – Prohibited contracts.

The Town shall not enter into any contract involving services or property with a member of the governing authority or with a business in which a member of the governing authority has an interest. This section shall not apply in the case of:

- (1) The designation of a bank or trust company as a depository for Town funds;
- (2) The borrowing of funds from any bank or lending institution which offers the lowest available rate of interest in the community for such loan;
- (3) Contracts entered in accordance with O.C.G.A. §16-10-6(c);
- (4) Contracts entered into under circumstances that constitute an emergency situation, provided that the Mayor prepares a written record explaining the emergency;
- (5) Contracts entered into with a member of the governing authority, or with a business in which a member of the governing authority has an interest provided that such contract is the result of a competitive bid, disclosure of the nature of such member's interest is made prior to the time any bid is submitted, and a waiver of the prohibition contemplated by this section is issued by the Mayor following disclosure.

(Ord. of 6-24-2004(2), §6)

Sec. 2-118 – Restrictions on contracts with former members of the governing authority.

The Town shall not enter into any contract with any person or business represented by such person who has been, within the preceding 12-month period, a member of the governing authority, unless the contract is awarded by a competitive bid or a committee selection process.

(Ord. of 6-24-2004(2), §7)

Sec. 2-119 – Complaints.

Any person having a complaint against any member of the governing authority for an alleged ethics violation shall file in writing a verified complaint setting forth the particular facts and circumstances which constitute the alleged violation against the governing authority. The complaint shall be filed with the Mayor, or in the event the complaint regards the Mayor, shall be filed with the Mayor Pro Tem. Upon the receipt of a complaint, the Mayor, or in the event the complaint regards the Mayor, the Mayor Pro Tem, shall appoint three members of the Town Council, who along with the Town attorney, shall constitute an investigating committee to determine whether the complaint sets forth significant facts and circumstances so as to warrant a hearing before the board of ethics. In the event the complaint does not set forth sufficient facts to constitute an alleged violation or is found unjustified, frivolous or patently unfounded, it shall be dismissed and the complainant notified immediately. In the event the complaint is found to state sufficient facts to warrant a hearing before the board of ethics, the board shall be appointed as provided herein.

(Ord. of 6-24-2004(2), §8)

Sec. 2-120 – Board of Ethics.

(a) *Composition.*

- (1) The board of ethics of the Town shall be composed of five (5) residents of the Town to be appointed as provided in subsections (a)(2) and (a)(3) of this section. Each member of the board of ethics shall have been a resident of the Town for at least one year immediately preceding the date of taking office and shall remain a resident of the Town while serving as a member of the board of ethics. No person shall serve as a

member of the board of ethics if the person has, or has had within the preceding one-year period, any interest in any contract, transaction, or official action of the Town.

- (2) The Mayor and Council members shall each designate two qualified citizens to provide a pool of 14 individuals who have consented to serve as a member of such board of ethics and who will be available for a period of two years to be called upon to serve in the event a board of ethics is appointed.
 - (3) The Town clerk shall maintain a listing of those 14 qualified citizens. Should the investigating committee determine a complaint warrants a hearing before the board of ethics, the Mayor and Council, at the first public meeting after such determination, shall draw names randomly from the listing of qualified citizens until the specified five members of the board of ethics have been appointed. Such board will elect one of its members to serve as chairman.
 - (4) The members of the board of ethics shall serve without compensation. The governing authority of the Town shall provide meeting space for the board of ethics. Subject to budgetary procedures and requirements of the Town, the Town shall provide the board of ethics with such supplies and equipment as may be necessary for it to perform its duties and responsibilities.
- (b) *Duties and powers.* The constituted board of ethics shall have the following duties and powers:
- (1) To establish procedure, rules and regulations governing its internal organization and conduct of its affairs;
 - (2) To hold hearing within 60 days after receipt of the complaint. Failure to hold a hearing within the specified time shall result in dismissal of the complaint as to the transaction and shall prevent refiling if a complaint arises in the same incident for at least a period of six months.
 - (3) To prescribe forms, approved by the Town attorney, for the disclosure required in this division and to make available to the public information disclosed as provided in this section;
 - (4) To receive and hear complaints of violations of the standards required by this division;
 - (5) To make such investigation and response to a complaint as it deems necessary to determine whether any person has violated any provisions of this division;
 - (6) To hold such hearings and make such inquiries as deemed necessary to investigate and rule upon complaints;
 - (7) To report its findings to the governing authority for such action as the governing authority deems appropriate.

(Ord. of 6-24-2004(2), §9).

Sec. 2-121 – Service of complaint; hearings and disposition of complaints.

The board of ethics as appointed herein shall cause the complaint to be served on the member of the governing authority charged as soon as practical. Service may be by personal service or by certified mail, return receipt requested. A hearing shall be held within 60 days after filing the complaint. The board of ethics shall conduct the hearing in accordance with the procedures and regulations it establishes, but in all circumstances the hearing shall include the taking of testimony and the cross examination of witnesses. The decision of the board of ethics shall be rendered to Mayor and Council within five days after completion of the hearing.

(Ord. of 6-24-2004(2), §10)

Sec. 2-122 – Penalty and member rights.

- (a) Any member of the governing authority who knowingly violates any provision of the code of ethics provided in this division shall be subject to public reprimand or censure by the governing authority of the Town.
- (b) At any hearing held by the board of ethics, the member of the governing authority who is the subject of inquiry shall the right to written notice of the allegations at least ten business days before a hearing, to be represented by counsel,

to hear and examine the evidence and witnesses and to present evidence and witnesses in opposition or in extenuation.

(Ord. of 6-24-2004(2), §11).

Sec. 2-123 – Appeals.

- (a) Any member of the governing authority or the complainant adversely affected by the findings of the board of ethics may obtain judicial review of such decision as provided in this section.
- (b) An action for judicial review may be commenced by filing an application for a writ of certiorari in the Superior Court of Chattooga County within 30 days after the decision of the board of ethics. The filing of such application shall act as supersedeas.

(Ord. of 6-24-2004(2), §12).

Sec. 2-124 –Gifts and gratuities.

- (a) Neither the Mayor nor any Council member or other officer or employee, elected or appointed, whether paid or unpaid, shall solicit or accept nor shall any person offer or give, anything of value, in any form or forms whatsoever, calculated to influence a vote, decision or the exercise of official authority in any manner involving the Town;
- (b) Nothing shall prohibit any Town official or employee from accepting a gift on behalf of the Town of Trion, provided that the person accepting the gift shall promptly report the receipt of such gift to the board of ethics or its designee, which shall have the gift added to the inventory of property of the Town of Trion.
- (c) Nothing in this ordinance shall be interpreted to prohibit the offer or acceptance of a gift of food, entertainment or anything of value, given with no intent to influence the recipient in the performance of his or her official duties. Any person receiving a gift pursuant to this subsection with a value exceeding Fifty Dollars (\$50.00) shall report said gift to the Board of Ethics within five (5) business days of its receipt.

ARTICLE IV – DEPARTMENTS

DIVISION 1. - IN GENERAL

Sec. 2-189. - Authorization.

The following departments are established by the Council:

- (1) Administration.
- (2) Finance.
- (3) Community development.
- (4) Transportation.
- (5) Public works.
- (6) Police.
- (7) Parks and recreation.
- (8) Building.
- (9) Municipal court.

Sec. 2-190. - Oversight.

- (a) At the election of the Mayor, each department may have a department head or its equivalent. That department head shall be responsible for the day-to-day management of each department and shall report and make recommendations to the Mayor from time to time.
- (b) The Mayor or his designate shall supervise each department.

Secs. 2-191—2-200. - Reserved.

DIVISION 2. - POLICE DEPARTMENT

Sec. 2-201. - Composition of police department.

The police force of the Town shall consist of such officers and employees as shall be determined by the Council.

Sec. 2-202. - Chief's duties.

- (a) The chief of police shall be the chief administrative officer of the police force and shall be responsible for the orderly and efficient operation of the police department.
- (b) The chief of police, in general, and department personnel under his or her direction shall:
 - (1) Attend any meetings of the Council at the request of the Council or the Mayor;
 - (2) Execute all lawful orders and directions of the Mayor;
 - (3) Abate or remove any nuisance when so directed by the Mayor;
 - (4) Maintain the peace, good order and tranquility of the Town through enforcement of all municipal ordinances and state or federal laws. The police officers shall have all patrol and arrest powers granted by state law;
 - (5) Under the general direction of the Mayor, be in charge of the police department and have supervision over the personnel thereof in the exercise of their powers, duties and authority and in hiring, discharging or suspending any members within the parameters of the Town Charter, ordinances, departmental rules and regulations, civil service laws and any other appropriate statute;
 - (6) Enter or cause to be entered on the Town's uniform traffic citation, and into the official record, all available information pertaining to individuals charged or arrested for violation of ordinances and state law;
 - (7) Serve all subpoenas and warrants of the municipal court and the Town Council and as otherwise authorized by law;
 - (8) Issue and serve summons for violations of law or ordinance and serve all processes, executions, attachments for the Town clerk, municipal court or the Town Council;
 - (9) Render such aid and assistance as may be necessary to enforce in the Town all health laws of this state and regulations pertaining to health of the Town.

Sec. 2-203. - Public safety personnel; prompt response to emergencies.

The purpose of this division is to ensure the prompt response of police personnel as defined herein in times of emergencies.

Sec. 2-204. - Police attendance at trials.

It shall be the duty of each police officer making an arrest or having knowledge of the case for or against the defendant to attend the trial of any person brought before the municipal court and other courts where a case may be heard.

Sec. 2-205. - Traffic violations; prosecution.

A citation issued by the police department can only be reduced by the Town prosecutor or solicitor. Any citation that is voided must be done in Town municipal court. The Town may designate a non-lawyer as prosecutor provided he or she is a member of the Town of Trion Police Department.

Sec. 2-206. - Sale of unclaimed property.

- (a) Bicycles and other unclaimed personal property, except firearms and weapons, not marked as evidence, in the possession of the police department for a period of 90 days and after an effort has been made by the police department to ascertain the ownership of such property and to notify the owner, shall be sold at public auction to the highest bidder, after publishing notice of such sale as required by O.C.G.A. § 44-14-411. The proceeds of any sale made under this section shall be disbursed in accordance with O.C.G.A. § 44-14-412.
- (b) Unclaimed firearms and weapons in the possession of the police department for a period of 90 days, not marked as evidence and after an effort has been made to notify the owner, shall be disposed of as follows:
 - (1) Destroyed by the property and evidence custodian.
 - (2) Receipted to the police department for their use in training or operations.
 - (3) Disposed of in any other means allowed by law.

Secs. 2-207—2-218. - Reserved.

ARTICLE V – BOARDS, COMMISSIONS, AND ADVISORY COMMISSIONS

DIVISION 1 – GENERALLY

Secs. 2-219—2-244. - Reserved

DIVISION 2 – NONADVISORY BOARDS AND COMMISSIONS

Sec. 2-245. - Creation.

Unless stated otherwise, the provisions of this article apply to the board of appeals, planning board, construction board of appeals, and hospitality board, which shall have the powers and duties and be subject to and governed by the regulations set forth in this article and this Code. The duties of each board are defined in the corresponding section of this Code.

Sec. 2-246. - Appointment of members.

All board members must be nominated by the Mayor and confirmed by the Council except as otherwise mandated by state law. This section applies to all boards created by the Town.

Sec. 2-247. - Membership.

- (a) Members of boards may receive such compensation and expenses in the performance of their official duties as prescribed by ordinance.
- (b) Members must attend two-thirds of meetings in a calendar year. Failure to do so warrants removal from the board.

Sec. 2-248. - Terms.

- (a) Each board member shall serve a specified term of not more than four years. Consecutive terms are permissible. Each board member shall have equal terms of an amount to be specified by the Council.
- (b) No member of any board shall hold any elected office in the Town. Councilmembers and the Mayor, however, may serve as ex officio members of such boards, commissions, or authorities, without a vote.
- (c) Any vacancy in office of any member of a board, commission, or authority of the Town shall be filled for the unexpired term in the manner prescribed for original appointment, except as otherwise provided by the Charter or any applicable state law. A consecutive appointment is permissible.
- (d) Any member may be removed from office for cause, by a vote of a majority of the members of the Council.

Sec. 2-249. - Quorum.

A majority of actual board members establishes a quorum. Any action taken requires a majority of affirmative votes of the quorum present.

Sec. 2-250. - Procedure.

- (a) Each of the boards shall make its rules of procedure and determine its time of meetings. The date and time of each meeting, as well as agenda items to be considered, shall be publicized in the same manner as meetings of the Council.
- (b) Each of the boards shall elect, annually, at its first meeting of the calendar year, one of its members to serve as chairperson.
- (c) All meetings at which official action is taken shall be open to the public, and all records maintained by the committee shall be public records unless expressly excepted by O.C.G.A. title 50, ch. 18, art. 4 (O.C.G.A. § 50-18-70 et seq.). The boards shall keep minutes of their formal proceedings, showing the vote of each member upon each question, and records of their examinations and other official actions, all of which shall be filed in the office of the Town clerk. Copies of the minutes shall be sent to the Mayor and each member of the Council. The minutes of the meetings shall be a public record. This section shall not be construed as prohibiting closed sessions when permitted by the Georgia Open Meetings Act (O.C.G.A. title 50, ch. 14 (O.C.G.A. § 50-14-1 et seq.)) and Open Records Act (O.C.G.A. title 50, ch. 18, art. 4 (O.C.G.A. § 50-18-70 et seq.)).

Secs. 2-251—2-278. - Reserved.

DIVISION 3 – ADVISORY COMMITTEES

Sec. 2-279. - Authorization.

The Council may establish advisory committees. The Mayor is an ex officio member of every committee. The Mayor or a designee shall oversee the meetings of each committee and is an ex-officio, nonvoting, member of each.

Sec. 2-280. - Duties.

- (a) Each committee shall, from time to time, propose policies and ordinances to the Council in the subjects germane to the committee.
- (b) This section shall not be interpreted to require committee approval for a measure to be heard before the Council.
- (c) Members must attend two-thirds of meetings in a calendar year. Failure to do so warrants removal from the committee by the Council.

Sec. 2-281. - Membership.

The Council shall establish qualifications for members of each committee. Each committee person shall be nominated by the Mayor and approved by the Council.

Sec. 2-282. - Terms.

- (a) Each committee member shall serve a specified term of not more than four years or until the committee completes its business. Consecutive terms are permissible.
- (b) Members filling vacancies shall serve the remainder of the term to which they were appointed. A consecutive appointment is permissible.
- (c) Any member may be removed with or without cause by the Mayor and a majority of the Councilmembers.

Sec. 2-283. - Compensation.

Committee members may serve without compensation. Reasonable expenses for travel may be reimbursed, and committee members may be compensated pursuant to a policy to be established by the Mayor and approved by the Council.

Sec. 2-284. - Quorum.

A majority of actual committee members establishes a quorum. Any action taken requires a majority of affirmative votes of the quorum present.

Sec. 2-285. - Procedure.

- (a) Each of the committees shall make its rules of procedure and determine its time of meetings. The date and time of each meeting, as well as agenda items to be considered, shall be publicized in the same manner as meetings of the Council.
- (b) All meetings at which official action is taken shall be open to the public and all records maintained by the committee shall be public records unless expressly excepted by a provision of Georgia Open Records Act, O.C.G.A. title 50, ch. 18, art. 4 (O.C.G.A. § 50-18-70 et seq.). The committees shall keep minutes of their formal proceedings, showing the vote of each member upon each question; and records of their examinations and other official actions, all of which shall be filed in the office of the Town clerk. Copies of the minutes shall be sent to the Mayor and each member of the Town Council. The minutes of the meetings shall be a public record.
- (c) Expenditures of the committees, if any, shall be within the amounts appropriated for the purpose intended by the Council during the annual budgeting process.

Secs. 2-286—2-303. - Reserved.

ARTICLE VI. - FINANCE

Sec. 2-304. - Fiscal year.

The fiscal year of the Town shall be July 1 through June 30.

Sec. 2-305. - Nonprofit funding.

The nonprofit funding policy, as amended from time to time and approved by the Town Council, is adopted by reference as if set forth in full herein.

Sec. 2-306. - Financial management plan.

The financial management plan, as amended from time to time and approved by the Town Council, is adopted by reference as if set forth in full herein.

Sec. 2-307. – Town Clerk to serve as Town tax collector, Town treasurer and Town accountant; miscellaneous functions.

- (a) The functions of the Town tax collector, Town accountant and Town treasurer shall be performed by the Town Clerk.
- (b) The finance director shall perform at least the following duties:
 - (1) Managing, planning, directing, and maintaining the Town's financial operations, including serving as chair of the Town finance department, if such a department is established;
 - (2) Directing and supervising the work of personnel involved in performing the accounting, utility billing, property tax, payroll, and purchasing functions for the Town;
 - (3) Providing technical leadership in budgeting, overseeing, and directing investment opportunities and debt administration, as well as ensuring proper record retention policies are strictly followed;
 - (4) Managing, planning, and directing the collection of all Town taxes; and
 - (5) Notifying delinquent taxpayers of their status in accordance with state law.

The Council may require the finance director to perform other duties.

Secs. 2-308—2-316. – Reserved.

ARTICLE VII. – COMPETITIVE BIDDING

Sec. 2-317 – Competitive bidding required.

- (a) All purchases of, contracts or agreements for supplies, materials, goods, equipment and contractual services, having an estimated purchasing cost greater than Five Thousand Dollars (\$5,000.00), except as otherwise provided in this Article, shall be based on one or more sealed competitive bids/proposals. Sealed bids/proposals shall, at a minimum, be solicited by advertisement in *The Summerville News* and placement on the Georgia Local Government Access Marketplace as maintained by the Georgia Municipal Association website at least once; and, at least ten (10) days prior to the date fixed for the opening of bids and awarding of contracts. In addition, other methods of advertisement may be used if, in the Mayor's opinion, such efforts are more advantageous for the particular items to be purchased.
- (b) The Town shall retain every bid conforming to the terms of the advertisement and shall notify the public in any manner the Town deems appropriate of the award of the contract with a name of the successful bidder indicated thereon. Such records shall be kept for public inspection.
- (c) If the bids received pursuant to a request for proposals or a request for sealed bids are determined by the Town to be noncompetitive; or, there are time or other circumstances which will prevent a re-solicitation of competitive bids, a contract may be negotiated provided that each responsible bidder who submitted a bid under the original solicitation is notified of the determination and given reasonable opportunity to negotiate a contract with the Town.
- (d) The lowest bid received from a responsible bidder for purchases shall be accepted by the Council, however, if the Council finds that the lowest bid is not in the Town's best interest for any reason including, but not limited to; the quality of the articles to be supplied and conformity with the standard specifications which have been established and prescribed; the purposes for which the articles are required; the discount allowed for prompt payment; the transportation charges; and the date or dates of delivery specified in the bid; and, any other cost affecting the total cost of ownership during the life cycle of the supplies, materials, or equipment as specified in the solicitation document, it may accept another bid or may call for additional bids. Additionally, the Town reserves the right to reject any and all bids submitted and notice thereof shall be contained in each advertisement for the solicitation of bids.
- (e) All advertisements for bids shall indicate the time and the place where the bids will be received and the date and time the bids will be opened.
- (f) All bids or requests for proposals shall be opened by the Mayor or Town Clerk in the presence of one department head, one Council member, or the Town Attorney. Copies of all bids shall be delivered to each Council member within 48 hours of the bid opening.

Sec. 2-318 – Emergency purchases.

The Mayor is hereby authorized to waive any and all bidding requirements for the purchase of necessary goods materials, equipment or services whenever an emergency condition exists which presents a threat to Town property or to the safety, health, and welfare of the citizens of the Town of Trion and whenever such requirements would cause undue delay in the delivery of essential services under such conditions.

Sec. 2-319 – Certification of bid.

Each bid submitted pursuant to Section 2-317 shall be signed by the party making that bid and the following oath attached thereto:

I certify that this bid is made without prior understanding, agreement, or connection with any other corporation, firm or person submitting the bid for the same materials, supplies, or equipment and is in all respects fair and without collusion and fraud. I agree to abide by conditions of this bid and certify that I am authorized to sign this bid for the bidder.

Sec. 2-320 – Professional services exemption.

The following purchases are exempted from the competitive pricing requirements of this ordinance:

- (a) Real property, real estate brokerage and appraising, abstract of titles for real property, title insurance for real property and other related costs of real property.
- (b) Purchases between governments and/or nonprofit organizations;

- (c) Utilities, including but not limited to, electric, water and telephone;
- (d) Licensed health professionals;
- (e) Training, travel, lodging or meal expenses that are covered by other city policies and regulations;
- (f) Items for resale that require a particular manufacturer to enhance their marketability;
- (g) Legal advertisements;
- (h) Purchases made through federal, state, or county contracts, or at pricing that is less than these government contracts;
- (i) Used equipment with documentation that fair market value is being paid and competitive pricing is not feasible;
- (j) Professional services provided by attorneys, accountants, architects and engineers upon approval of the Mayor or Town Council;
- (k) Public works construction contracts governed by O.C.G.A. § 36-9-1 et seq. as approved by the Town Council (generally this includes any public works construction project of more than one hundred thousand dollars (\$100,000.00); and,
- (l) The leasing or rental of real property upon approval of the Town Council.

Secs.2-320- 3-332. Reserved.

ARTICLE VIII. - PURCHASING

Sec. 2-333. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Any terms not defined by this article shall have the meaning ascribed to them elsewhere in this Code.

Town finance director means the Town accountant, his agent, or the chair of the Town finance department, if such a department is created or is in existence. Until subsequently appointed, the Mayor shall perform the duties of the finance director.

Mayor means the top executive/administrative position appointed by the Town Council and has the authority to execute and approve contracts, purchase orders, and change orders within his delegated authority.

Construction means the process of building, altering, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property. The term "construction" does not include the routine operation, repair and/or maintenance of existing structures, buildings, or real property.

Contract means any Town agreement, regardless of form or title, for the procurement or disposition of goods, commodities, and services.

Employee means an individual drawing a salary or wage from the Town, whether on a full-time or part-time basis. The term shall encompass all members of the Town Council without regard to whether or not such individual is compensated.

Gifts or favors means anything or any service of value.

Goods or commodities means supplies, apparatus, materials, equipment, and other forms of tangible personal property.

Payment terms mean two percent net 20.

Purchase order means the document used by the Town to obtain supplies, goods, commodities, and services from vendors.

Purchasing agent means the principal purchasing official of the Town pursuant to section 2-334.

Vendor means one who sells goods or services; a supplier.

Sec. 2-334. - Purchasing agent.

The Town Clerk shall act as purchasing agent and shall have the following duties and powers:

- (1) Arrange and negotiate the purchase or contract for all equipment, supplies, and contractual services for the Town or any using agency; arrange and negotiate for the sale or otherwise dispose of all surplus equipment and supplies or real estate of the Town or any using agency;
- (2) Maintain a perpetual or periodic inventory record of all materials, supplies, or equipment stored in Town storerooms, warehouses, and elsewhere, including monthly reports that provide:
 - a. The titles of all requests for proposals and the method of source selections to be used;
 - b. All contracts authorized by the Council, the method of source selection used, and the total dollar amount;
 - c. All emergency contracts awarded pursuant to this article;
 - d. All change orders or contract modifications authorized by the Council, the dollar amount, and the reason;
 - e. All change orders or contract modifications authorized by the purchasing agent, the dollar amount, and the reason; and
 - f. An explanation of any changes, and the costs involved, in the scope of services made between the time a contract is awarded and the time that a resolution authorizing the contract is sent to the Council for adoption;
- (3) Control and supervise all Town storerooms and warehouses, unless otherwise provided in this Code;
- (4) Develop and maintain a purchasing policy and procedure manual which will be updated by the purchasing agent periodically;
- (5) Direct efforts to procure services through advertisements of bids as required by this article and by state law;
- (6) Require bonds, insurance, and other forms of protection for the Town on the process of procuring goods and services for the Town;
- (7) Terminate solicitations for bids for any goods or services when, in the opinion of the purchasing agent, it is in the Town's best interest to do so, including termination for breach of contract or anticipated breach of contract;
- (8) Reject any and all bids when, in the opinion of the purchasing agent, it is in the Town's best interest;
- (9) Consult with the Town attorney if a contracting party breaches or is reasonably anticipated to breach its contract with the Town.

Sec. 2-335. - Legal representation.

The Town attorney represents the Town in all legal matters and has the authority to provide standard terms and conditions of contracts and purchase orders and approves various negotiated terms and conditions as determined by the purchasing agent.

Sec. 2-336. - Purchasing policy.

The purchasing policy, as amended from time to time and approved by the Town Council, is adopted by reference as if set out at length in this Code.