

**Title III Chapter 32
Town Policies**

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§32.01 Safety Program

- (A) The town considers the safety of its employees a major responsibility. Constant endeavor shall be made to provide safe working habits and conditions. It is recognized that accident control can only be successful when, adequate stimulation comes from top management, adequate coordination and advice comes from Staff members, supervisors accept safety responsibilities, and when employees participate in the elimination of unnecessary suffering. *(Ord. passed 6-23-82)*
- (B) Policies
- (1) The designation of a responsible employee in a position of authority as the Safety Coordinator.
 - (2) Support from management and supervisory personnel in the prevention of accidents and the implementation of this policy.
 - (3) The establishment of the Safety Steering Committee composed of representatives from various departments of this municipality.
 - (4) Regularly scheduled safety meetings held with supervisors.
 - (5) Supervisors conducting regularly scheduled safety meetings with employees.
 - (6) Investigations of all accidents resulting in injuries that require medical attention to determine causes of the accidents and remedial actions required to prevent recurrence.
 - (7) Supervisors being responsible for the safe condition of assigned equipment and materials, good housekeeping practices and safe working conditions. Supervisors should conduct regularly scheduled inspections of their work places to identify hazards. Corrective actions shall be initiated to control unsafe acts, conditions or procedures
 - (8) Accident prevention principles being incorporated in new employee orientation training and being a part of on-going training programs for all employees. Supervisors will train employees to use safe work practices.
 - (9) The department heads, with the assistance of the Safety Coordinator, analyzing hazardous working conditions and developing standard operating procedures to insure that the hazardous conditions are minimized and that safe work practices are used.

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- (10) Use of personal protective equipment by employees to reduce the probability of injury.
- (11) All employees being charged with the responsibility for making safety a daily concern. This responsibility must be accepted by everyone, regardless of their position in the organization. (*Ord. passed 6-23-82*)

§32.02 Smoking Regulations

- (A) Numerous reliable studies have found that tobacco smoke is a major contributor to indoor air pollution and have shown that breathing sidestream or secondhand smoke is a significant health hazard to nonsmokers. The Surgeon General of the United States has concluded that involuntary or passive smoking is the cause of disease, including lung cancer, in healthy nonsmokers and has estimated that involuntary smoking causes more deaths; approximately 5,000 per year, more than all other airborne pollutants combined, excluding asbestos. The Board of Town Commissioners recognizes the increasing evidence that smoke creates a danger to the health of some citizens and is a cause of annoyance and physical discomfort to those who are in confined spaces where smoke is present. (*Ord. passed 6-8-93*)
- (B) Definitions
 - (1) Enclosed Area: The interior portion of a town owned or leased building.
 - (2) Town owned Building: Any building or structure owned, leased, operated, maintained or managed, directly or indirectly, by the town.
 - (3) Smoke or Smoking
 - a. The carrying or holding of a lighted pipe, cigar or cigarette or any other lighted smoking equipment or device
 - b. The possession of any burning tobacco, weed or other plant product; or
 - c. The lighting of, emitting of exhaling the smoke of a pipe, cigar or cigarette of any kind. (*Ord. passed 6-8-93*)
- (C) Smoking Prohibited Areas
 - (1) Smoking shall be prohibited in all public restrooms, all public assembly rooms, all hallways and corridors, employee lounges and any other areas designated by the department head in any public building. (*Ord. passed 6-8-93*)
- (D) Posting of Signs Required
 - (1) "No Smoking" signs with letters of not less than one inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every public building or other place where smoking is regulated by this subchapter, by the public official having control of such building or other place. No person shall remove or deface any sign required to be posted or under the authority of this subchapter. (*Ord. passed 6-8-93*)
- (E) Other Applicable Laws
 - (1) This subchapter shall not be interpreted nor construed to permit smoking where it is otherwise prohibited or restricted by other applicable laws. (*Ord. passed 6-8-93*)
- (F) Responsibilities

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- (1) Each employee of the town is responsible for adhering to the town's policy on smoking.
 - (2) Department heads will take appropriate disciplinary action pursuant to § 32.02 (H) when the policy on smoking is violated. (*Ord. passed 6-8-93*) Penalty, see § 32.02 (H).
- (G) Disciplinary Proceedings
- (1) The department head of any employee who violates the town's smoking policy will begin disciplinary proceedings as presented in § 32.99. The initial emphasis will be on informal counseling, but repeated violation will lead to warnings and eventual termination. (*Ord. passed 6-8-93*)
- (H) Penalty
- (1) Violations of the subchapter may be enforced by any one or more of the remedies authorized by G.S. § 153A-123, including the following
 - a. The County Sheriffs Department and/or the Brunswick County Health Department may issue a citation which subjects the offender to a civil penalty of \$50, to be recovered by the town in a civil action in the nature of debt, if the offender does not pay the penalty within 20 days after being cited for a violation.
 - b. A civil action seeking equitable and injunctive relief to restrain or prohibit the violation of this subchapter.
 - c. A misdemeanor warrant may be issued that may subject the violator to a fine not to exceed \$50, or imprisonment not to exceed 30 days. (*Ord. passed 6-8-93*)

§32. 03 Deleted: see §30.18

§32. 04 Usage of Calabash Town Hall.

- (A) The Town Hall be used for designated Town of Calabash business only by Boards or Committees expressly sanctioned by the Town of Calabash Board of Commissioners.
Adopted this the 14th day of May 2002.

§32. 05 Committee Appointments

- (A) The Mayor is authorized by Town Ordinance to fill Committee positions.
- (B) Selection of the candidates to fill the vacancies of the Committee will be at the discretion of the Mayor.
- (C) Town Staff Committee Appointments
 - (1) The Mayor may appoint Town employees to committees.
 - (2) Conditions of appointment:
 - a. Employees do not sit on committees as members, but rather as resource advisors.
 - b. Staff will not “make motions,” “second motions” or “vote” on any actions the committee is considering.
 - c. It will be Staffs’ responsibilities to gather information needed for the committee meetings, conduct research, and make presentations as directed by the committee.
 - d. Staff will offer advice as requested and will consider current ordinances and policies when acting in this capacity.

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- (D) Advertising for Committee Appointments
- (1) Advertising for volunteers to fill Committees will be done on a selected basis.
 - (2) Committee vacancies on selected committees will be advertised at the discretion of the Mayor.
 - a. Community service
 - b. Finance
 - c. Long Range Planning:
 - (3) Advertising will be done in the Brunswick Beacon and Town newsletters or other community produced newsletters.
- [Ord pass 13 Jan, 1998; Am Ord. 10 Aug. 2010]

§32.06 Unseal Closed Session Minutes

- (A) North Carolina General Statute (NCGS) Section 143-318.10(e) provides that every public body shall keep full and accurate minutes of all official meetings, including any closed sessions held pursuant to North Carolina General Statute (NCGS) Section 143-318.11
- (B) NCGS Section 143-318.10(e) also provides that minutes or a general account of a closed session conducted by a public body in compliance with NCGS Section 143318.11 may be withheld from public inspection so long as public inspection would frustrate the purpose of a closed session.
- (C) Minutes or a general account of a closed session conducted by a public body in compliance with NCGS Section 143318.11 may be released to the public by vote of the Board of Commissioners in open session as soon as it can be determined that the release of this information to public inspection would no longer frustrate the purpose of a closed session.
- (1) The Town Attorney and the Town Clerk are to periodically review closed session minutes and general accounts to determine if such minutes and general accounts should be unsealed.
 - (2) The Town Clerk and/or the Town Attorney shall make their recommendation to the Board of Commissioners stating the reason that the release of this information will no longer frustrate the intent of the closed session.
 - (3) The Board of Commissioners shall, by deliberation and vote in open session, authorize the Town Attorney and the Town Clerk to unseal the minutes and general accounts.
 - (4) Closed session minutes and general accounts held pursuant to § 143-318.11(6) [Personnel]
 - a. All information contained in a city employee's personnel file, other than the information made public by NCGS § 160A-168 (b) is confidential and shall be open to inspection only if the Board of Commissioners determines that the release is essential to maintaining public confidence in the administration of city services or to maintaining the level and quality of city services.
 - b. This written determination shall be retained in the office of the Town Clerk and is a record available for public inspection and shall become part of the employee's personnel file.
 - c. The Board of Commissioners may only release information about the employment or non-employment, promotion, demotion, suspension or other

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disciplinary action, reinstatement, transfer, or termination of a city employee and the reasons for that personnel action.

- (D) Reference GS§ 160A-168, Privacy of employee personnel records
(adopted 8-8-2006) [am. ord. 11 Aug. 2009]

§32.07 Release of Information

- (A) It is hereby declared to be the policy of the Board of Commissioners for the Town of Calabash with respect to providing information under the Freedom of Information Act 5 U.S.C. §552 or the Public Records Law North Carolina General Statutes 132-1.
- (B) The Town of Calabash shall endeavor to meet all request for information in a timely manner dependant on the amount of information requested, amount of time estimated to search and review pertinent documents, copying of same and pending prior requests.
- (C) The Town of Calabash may assess fees for copying, certifying records, or for extensive clerical or supervisory assistance by personnel if needed.
- (D) The Town of Calabash shall handle all requests on a first come first serve basis or may process requests on a separate queue dependant on their complexity.
- (E) Upon receipt of a written request for information (form TOC 0010), an identification number shall be issued to ensure tracking and filing of each request.
- (F) Should a request or any part of a request be denied, an explanation for denial shall be given and the requesting party shall be informed of their right to appeal.
- (G) Final ruling on appeals shall be within the 20 day statutory time limit. *Adopted this the 13 day of August; 2007*

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§32.08 Communications

(A) General

- (1) All communications, no matter what medium, used in the conduct of town business are public records and are subject to public inspection. [NCGS §121-2]. Public records may exist in any medium (e.g. paper, electronic, photographic etc.). The use of the record or communication for town business determines whether it is public information or not.
- (2) All public records are subject to retention and archival which is the responsibility of the town clerk [NCGS §160A-171] and shall receive copies of all public records.
 - a. The Town Clerk shall be provided copies of all public records by receiving copies or
 - b. By requesting the Town Clerk to distribute the communication(s).

(B) Official Communications

- (1) Official communications are intended to reflect the opinion of the Town of Calabash.
 - a. All official communications by an elected official shall be approved by action of the Board of commissioners in open session.
 - b. All official communications shall exist as a physical document (paper) as the primary public record.
 - c. All such approved communications are to be co-signed by the Mayor (Mayor Pro-tem or any two commissioners in his absence or inability) and the originator of the approved communication.
 - d. All approved, co-signed communications are to be filed in the binder marked "Reading File".

(C) Unofficial communications pertaining to town business.

- (1) Freedom of speech in the United States is protected by the First Amendment to the United States Constitution but every town official shall make it clear whether or not the communication is reflective of the town's policy or the views of the individual.
- (2) Communications from any town official that are not defined as official (§32.07 (B)) shall make it clear that it is the opinion of the author only and may not reflect the opinion of the board of commissioners or the Town of Calabash.
- (3) Unofficial communications used in conducting town business are public records.
 - a. Written communications may exist as paper documents or as electronic documents (including but not limited to email, digital images, digital recordings and the like).
- (4) The following general guidelines are recommended:

Note: e-mail is being used as an example since it is one of the most common forms of unofficial public record used by town staff or elected officials. The majority of e-mails could also be handled by telephone but are sent as e-mail due to timing, availability of the recipient/sender or ease of communication. To the extent possible, e-mail should be limited to public records with short term value which may be disposed of when no longer of administrative value. [Ref. NCDCCR Retention and Disposition Schedule, Municipal].

- a. The subject of the communication should be reflective of the content.
- b. Address your recipient by name in your salutation.
- c. Write in complete sentences as they are much easier to read and understand than sentence fragments.
- d. Be brief *and* polite.

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- e. Be concise. Make sure to put your main point in the opening sentence and then quickly make your points
- f. Avoid abbreviations and acronyms.
- g. Do not include or attach any confidential information.
- h. Carefully edit and proofread.
- i. Ensure the message does not contain inappropriate language.
[Reference: North Carolina Department of Cultural Resources, Division of Historical Resources, Archives & Records Section Government Records Branch: Guidelines for E-mail as a Public Record in North Carolina]

(5) Example of an unofficial e-mail public record

“Official” Identity

Subject reflective of message content

Be brief and to the point.

Contact information for recipient

This is an “unofficial” message disclaimer and is public record since it is being used in the conduct of town business.

From: Commissioner [redacted]@atmc.net <[redacted]@atmc.net> mail.atmc.net

To: [redacted] <tccalabash@atmc.net>

Cc: [redacted] <tacalabash@atmc.net>

Subject: Status of Recodifications: Garbage (T-V chap.50), Sewer(T-V chap 51), Water (T-V chap 52)

Hi Kelley, What is the status of the ordinance book updates for the recodifications?
All should be in in effect and I have them posted on the Town's web site.

--
Best Regards
John

[redacted]
Commissioner
Town of Calabash NC
882 Persimmon Rd.
Calabash, NC 28467
[redacted]@atmc.net

Note: This message represents the opinion of the sender and may not represent the opinion of the Board of Commissioners or the Town of Calabash. This message and any response to this message may be categorized as a public record North Carolina General Statutes (N.C.G.S.) §121-2(8) and §132-1(a).

Note: Most e-mail software will permit multiple identities and corresponding signatures. If the same computer system is used for official and casual e-mail communications, it is possible to create an “official” and “casual” identity with corresponding signatures.

[Ord pass 7/12/1994, Ord am. 10 Aug 2010]

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§32. 09 Complaints dealing with Elected Officials, Employees or Individuals of the Town

- (A) To assure that all complaints brought to the attention of the Mayor and Board of Commissioners are handled properly, any complaint concerning personnel, administration, the governing board or individuals on any matter must be in writing for consideration.

[Ord pass 12/13/1994, Ord amd. 10 Aug 2010]

§32. 10 Purchasing

- (A) All purchases of materials and supplies for Town use are to be done using the Town of Calabash Purchase Order form.
- (B) All purchase orders must be signed by the Town Administrator or in his/her absent, the Mayor or Mayor Pro Tem. An Interim Town Administrator may also sign purchase orders.
- (C) All purchase orders that are in excess of \$ 500.00 or exceed the budget must be approved by the Board of Commissioners.
- (D) Purchase orders must not be issued that are in excess of \$ 500.00 without three quotes.
- (E) Purchase orders of \$1000.00 or more, or expected to exceed this amount, shall require a written specification which shall be submitted to the Board of Commissioners at the same time as the purchase order.
 - (1) The specification shall identify the owner of the item or work to be performed.
 - (2) The specification shall define what is to be purchased and the reason for this purchase.
 - (3) The specification shall identify any intermediate steps as required.
 - a. Special intermediate steps and/or intermediate deliverables.
 - b. Special requirements for intermediate steps.
 - (4) The specification shall define the final deliverable or outcome of the purchase.
- (F) Every effort should be made to use State contracts, especially in the purchase of capital equipment. [Ord. passed 10/8/1996; Am. Ord. passed 10/13/2009]

§32. 11 Code of Ethics for Town Officials, Boards and Committees

- (A) Purpose
 - (1) Clarify the ethical requirements and establish clear guidelines for members of its Planning Board, Board of Commissioners, and all members of boards and committees serving and conducting business in and for the Town of Calabash.
 - (2) The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government.

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- (3) This code of ethics is not intended to replace, conflict with or modify applicable criminal or civil statutes of North Carolina. In the event of a conflict, however, state law shall control over the code of ethics when such state law is more restrictive. Otherwise, this code of ethics shall be in addition to such statutes, case law, and regulations.

(B) Conflict of Interest

- (1) No town official shall use his or her official position or the town's facilities for his or her private gain, nor shall he or she appear before or represent any private person, group, company, entity, business enterprise or interest before any department, agency, commission, board, or staff of the town, except in matters of purely civic or public concern. The Town Administrator and Department Heads shall not be deemed as "staff of the town" for the purposes of this section and may be consulted by town officials with a conflict of interest.

- a. A public official shall not be prohibited from appearing before such Town entities to represent his or her own, personal interest, and not that of third parties or separate entities on matters affecting his or her own real property or business interests if such town official has been excluded from the voting and participation on the matter in question.
- b. The provisions of this paragraph are not intended to prohibit appropriate roles and activities by a town official at town events or events attended by the town, such as acting as a host, an ambassador or representative of the town, and are not intended to prohibit his or her speaking before neighborhood groups and other nonprofit organizations.

(2) Incompatible employment.

- a. No town official shall engage in or accept employment with, or render services for, any person, business entity or nonprofit organization, when such employment or service is incompatible with the proper discharge of his or her official duties, or would tend to impair his or her independence, judgment, or action in the performance of his or her official duties, unless otherwise permitted by law and unless full disclosure is made, pursuant to the code of ethics.

(3) Interest in official act

- a. Any town official who has a direct or indirect pecuniary or material benefit interest in any official town act or action shall not participate at any time or in any manner in the discussion or consideration of such matter.
 - 1. The town official shall also publicly disclose on the record, in open session, the existence of the interest or conflict and shall withdraw from any voting on the matter, if excused by a majority vote of the town council and if permitted by G.S. 160A-75.

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2. The town official shall be deemed to have an interest in any official act or action affecting:
 - a. A town official's immediate family or close relative.
 - b. Any business entity in which the town official is an employee, officer or director.
 - c. Any business entity in which an excess of five percent of the stock, or legal or beneficial ownership of such business entity, is controlled or owned directly or indirectly by the town official.
 - d. Any nonprofit organization for which a town official currently is an employee, officer, director, or board member.
- (4) Disclosure of confidential information.
 - a. No town official shall use or disclose confidential information for purposes of advancing any matter in which he or she has an interest nor shall a town official disclose for any purpose information gained at a closed session until such disclosure is authorized by law.
- (5) Special treatment.
 - a. No town official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.
 - b. No town official shall show favoritism toward relatives and friends, based upon that relationship, rather than on an objective evaluation of ability or suitability (nepotism).
- (6) Gifts and favors
 - a. No town official shall knowingly accept gifts from any person, business entity or nonprofit organization if, in fact, this gift or favor is intended to influence the support of this person or entity. This provision is intended to supplement rather than replace or modify the restrictions applicable to town officials provided in G.S. 14-234 and 133-32.
 1. Town officials may accept gratuities having a value of less than \$100.00, so long as such gratuity is not intended and does not, in fact, influence any official act of any town official, and is not prohibited by state law.
 2. A gift includes, but is not limited to, a rebate or discount in the price of anything of economic value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status.
- (7) Independence of Commissions and Committees
 - a. Because of the value of the independent advice of commissions and committees to the public decision-making process, members of the board

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of commissioners shall refrain from using their position to unduly influence the deliberations or outcomes of commission or committee proceedings.

- (8) Use of Public Resources
 - a. Public Officials shall not use public resources for private gain or personal purposes. Public Officials shall not utilize the City's name or logo for the purpose of endorsing any political candidate or business.
- (9) Advocacy
 - a. Public Officials shall represent the official policies or positions of the Board of Commissioners, commission, or committee to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, officials shall explicitly state they do not represent their body or the Town of Calabash.
- (10) Respect for Process
 - a. Public Officials shall perform their duties in accordance with the processes and rules of order established for the Board of Commissioners, commissions, and committees governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the Board of Commissioners by City staff.
 - b. Public Officials shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the Board of Commissioners, commissions and committees, the staff or public and otherwise interfere with the orderly conduct of meetings. This provision is not intended to limit the right of a Public Official to comment on the manner in which the business of the City is being conducted.
- (11) Complaints dealing with Elected Officials, Employees or Individuals of the Town
 - a. Upon the written request of the official or employee concerned, the town attorney shall render written advisory opinions based upon the provisions of this code of ethics and state law. Such opinion shall be filed with the town clerk, but may delete the name of the official or employee involved.
 - b. If the request for opinion shall come from the town attorney or any employee working under him or her, then the request shall be submitted to the town administrator for an opinion. The town administrator upon receipt may seek the advice of a private attorney in rendering such opinion.
 - c. Any opinion rendered by the town attorney or the town administrator shall be binding and final upon the requester.
- (12) Violations

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- a. Any violation of this article may be cause for public or private reprimand up to and including removal of the town official and/or voidance of any contract made or bid submitted or action taken in violation of this article.
- b. Removal of a planning board member shall be by majority vote of the Board of Commissioners. Removal of a board of commissioners member shall be in accordance with NCGS.
[ord passed 13 May, 2008]

§32. 12 Personal Mileage Reimbursement

- (A) Town employees
 - (1) Town employees shall use the town vehicles for all business travel on town's business.
 - (2) Any exception must be approved by the town administrator in advance.
- (B) Town officials
 - (1) In recognition that town officials will rarely be in the vicinity of town hall and may have personal business to attend to and the official is not otherwise compensated for his/her time, the use of the town vehicle or car-pooling is encouraged but not mandatory for all town officials while on town business. **(Ord passed 12/09/2008)**

§32. 13 Charitable Donations

- (A) The Town of Calabash is supportive of charitable organizations and will support as many as possible while remaining within the budget allocated for this purpose.
- (B) Charitable organizations requesting donations will be handled in a "first come-first serve" basis until the budget allocation is exhausted.
 - (1) Those seeking a donation shall be required to fill out an application, which in part, includes
 - a. Information of how the donation will benefit the community.
 - b. Physical location of the organization.
 - c. Organization services.
 - (2) Each application must be approved by the Board of Commissioners to ensure that the applicant is legitimate and funds will benefit the community in some way.
 - (3) Donations will be distributed to those applicants approved by the Board.
 - (4) Donation amounts to each applicant shall be decided by the Board of Commissioners but will normally be \$100 (one hundred dollars). [Ord. passed. 11 Aug. 2009]

§32. 14 Unsolicited Recordings

- (A) Recording of all open meetings is acceptable but only the "official" Town of Calabash recordings shall be used in the drafting of meeting proceedings.
- (B) The unsolicited recording (recordings other than the "official" Town of Calabash recording of proceedings) of closed session meetings is prohibited and any infraction is a class III misdemeanor and the penalty is \$100.00 per occurrence.

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- (C) The unsolicited recording of the private conversations of town officials while on town property (elected or employees of the town) without their express consent is prohibited. Infractions are a class III misdemeanor and the penalty is \$100.00 per occurrence. [Reference: GS §14-4, GS§160A-175, Town of Calabash code §10.99] [Ord. passed 10/13/2009]

§32.15 Funding Public Safety Providers

(A) Fire Service Provider

- (1) The Town will annually provide a contribution from the Town's General Fund to the Fire Department providing fire protection services to the Town of Calabash. This appropriation shall be estimated and included in the Town of Calabash Fiscal Year Budget.
- (2) The contribution from the General Fund shall, at a minimum, be equal to 15% of the local ABC store profits distributed to the Town during the current fiscal year. The Governing Body may elect to pay this amount in one lump sum or up to four installments.

(B) Emergency Medical Service (EMS) Provider

- (1) The Town will annually provide a contribution from the Town's General Fund to the Calabash EMS Department for providing emergency medical services within the Town of Calabash. This appropriation shall be estimated and included in the Town of Calabash Fiscal Year Budget.
- (2) The contribution from the General Fund shall, at a minimum, be equal to 15% of the local ABC store profits distributed to the Town during the current fiscal year. The Governing Body may elect to pay this amount in one lump sum or up to four installments. This appropriation shall be in addition to the contractual obligation that the Town of Calabash is bound to pay until 2013 (\$2,000 per year).