

## **CHAPTER 4. POLICE**

### **ARTICLE I. IN GENERAL**

#### **Section 4-1. Organization**

The police department of the Town shall consist of a chief and as many police officers as the Town Council shall determine deemed necessary to protect the citizens and property of the town.

#### **Section 4-2. Chief of police to have control**

The Police Chief shall have control over the police department under the supervision of the Town Manager. The Chief of Police shall keep the Manager informed of the department's activities and make such reports that the manger may from time to time require, and the chief shall perform such other duties as may be required of him/her by the Manager.

The Chief of Police may suspend, for cause, any member of the police department in accordance with the Personnel Policy.

#### **Section 4-3. Duties of police**

The police department shall carry out all orders of the Manager, enforce all laws and ordinances of the Town and the State of North Carolina, and shall at all times preserve the peace, protect the property and the safety of the citizens of Holly Ridge.

All police officers shall wear uniforms which shall be provided by the Town and shall keep such uniforms in a neat and clean condition, and shall surrender all uniforms and equipment upon leaving the police service of the Town if such uniforms and equipment were furnished by the Town.

#### **Section 4-4. Uniforms and equipment**

All police officers shall wear uniforms which shall be provided by the Town and shall keep such uniforms in a neat and clean condition, and shall surrender all uniforms and equipment upon leaving the police service of the Town if such uniforms and equipment were furnished by the Town.

### **ARTICLE II. CURFEW FOR MINORS**

#### **Section 4-5. Purpose**

The purpose of this ordinance shall be to establish a curfew for minors in the Town of Holly Ridge, thus assisting the parents and guardians of minors in the ever-increasing difficult task of child rearing, and to promote the health, safety, and welfare of both minors and adults in the Town of Holly Ridge by creating an environment offering protection and security for all concerned.

#### **Section 4-6. Definitions**

Public Place: Areas such as, but not limited to, all common areas open to all for common use; alleys, streets, or public places, or places of business and amusement; public vehicular areas, highways, and parks; establishments open to the public for the conduct of business.

Guardian: One who legally has the care and management of the person of a child defined as a minor by this ordinance.

Minor: A person who has not reached his/her sixteenth birthday and is not married, emancipated, or a member of the armed services of the United States.

#### **Section 4-7. Time limits**

It is unlawful for any minor to be or remain upon any public place as defined in this ordinance in the Town of Holly Ridge between midnight Friday and five o'clock a.m. on Saturday, or between midnight Saturday and five o'clock a.m. on Sunday, or between the hours of eleven o'clock p.m. and five o'clock a.m. of the following morning on Sunday, Monday, Tuesday, Wednesday, or Thursday.

#### **Section 4-8. Exceptions**

The restrictions provided by subsection (c) 1 shall not apply to any minor who is accompanied by a guardian, parent, or other responsible person charged with the care and custody of such minor, or other responsible person over eighteen (18) years of age, nor shall the restriction apply to any minor who is traveling between his home or place of employment, church, municipal building or school where a function is being held.

#### **Section 4-9. Responsibility of adults**

It is unlawful for any parent, guardian, or other person charged with the care and custody of any minor to allow or permit such minor to be in or upon, or remain in or upon a public place within the Town of Holly Ridge within the curfew hours set by section 4-8, except as otherwise provided in section 4-9.

#### **Section 4-10. Responsibility of business establishment**

It is unlawful for any person, firm, or corporation operating a place of business or amusement to allow or permit any minor to be in or upon, or to remain in or upon, any place of business or amusement operated by them within the curfew hours set by section 4-8, except as otherwise provided in section 4-9.

#### **Section 4-11. Enforcement**

1. When a minor is found to be in violation of this ordinance, the officer will check the records of the Town of Holly Ridge Police Department to determine if the

minor is a first offender. If the minor is a first offender, he/she will be taken to the residence of his/her parent or guardian. A verbal warning will be given to that adult and an information report taken by the officer, to document the violation, and shall include the name of the minor and adult, and the time, date, and location of the offense. This report will be turned in and filed in the police department juvenile records files.

2. If upon checking the records, the minor is found to be a repeat offender, he/she will be taken to the residence of his/her parent or guardian and the adult will be subject to a criminal citation pursuant to subsection (c) 6 of this article. A written police department report will also be completed and filed.
3. If the minor is below twelve (12) years of age a report will be made and a copy forwarded to the Onslow County Department of Social Services.

#### **Section 4-12. Aiding and abetting by adult, guardian, or parent**

It shall be a violation of this ordinance for any adult, guardian, or parent to allow, permit, encourage, aid or abet a minor in the violation of section 4-8 of this ordinance, except as otherwise provided in section 4-9.

#### **Section 4-13. Refusal of guardian or parent to take custody of a minor**

If any guardian or parent refuses to take custody of his/her child found in violation of this ordinance, the officer with custody of said minor shall contact the Onslow County Department of Social Services and release the minor to that agency, pending further investigation by the Police Department and the Department of Social Services. The adult will be subject to criminal citation pursuant to section 4-15.

#### **Section 4-14. Emergency Curfew**

Under the authority of N.C.G.S. 14-288.12, whenever the Mayor of the Town of Holly Ridge deems that an emergency exists, and there is a clear and present danger to the preservation of the public peace, health, life, or safety or to public or private property in the Town necessitating expansion of the curfew provisions set forth in section 4-8, the Mayor may effect such expansion effective for the period of the emergency by proclamation. The proclamation shall contain a statement of the reasons for such necessity, the period of the expanded curfew, and provide that no minor under the age of sixteen shall be upon or about public places as defined by this ordinance in the Town between the hours of 8:00 p.m. and 5:00 a.m. of the following morning unless accompanied by his/her parent, guardian, or responsible adult. Said proclamation may further provide that no parent or guardian of any minor under the age of sixteen shall allow the child to be upon or about the Town between the hours of 8:00 p.m. and 5:00 a.m. of the following morning unless the minor is under direction or protection of some adult person with authority of such parent or guardian for his/her being there. Said proclamation shall become effective thirty (30) minutes after being publicly announced by the Mayor for the said period or until rescinded by the Mayor or repealed by the Town Council in the manner in which

ordinances are repealed.

#### **Section 4-15. Punishment**

The punishment for violation of this ordinance shall be a fine of up to \$500.00 and/or imprisonment up to six (6) months.

### **ARTICLE III. AN ORDINANCE PROHIBITING THE USE OF ROLLER SKATES, SKATEBOARDS, AND OTHER SIMILAR DEVICES UPON PUBLIC STREETS**

#### **Section 4-16. Roller skates, skateboards, and other similar devices prohibited**

- (a) It shall be unlawful for any person to use for riding, or to ride and roll upon any roller skate, skateboard, scooter, or similar device in or upon any public street including sidewalks and the confines of the municipal park. Exceptions may be designated from time to time by the Town Council.
- (b) It shall be unlawful for any person being the parent or guardian of a minor to suffer or permit such minor to violate subsection (a) of this section

#### **Article 4-17. Misdemeanor**

Any person, firm or corporation convicted of a violation of this Article 1 through 3 of this chapter 9 shall be guilty of a misdemeanor and punished pursuant to the provisions of North Carolina General Statutes 14-4.

### **ARTICLE IV. FIREARMS REGULATED**

#### **Article 4-18. General**

It shall be unlawful for any person to discharge any firearm of any type within the corporate limits except a police officer in the performance of his duty.

#### **Article 4-19. Exceptions**

1. To allow for the properly supervised discharge of firearms within the confines of a duly Town Council approved shooting range.
2. To allow the firing of weapons utilizing blank ammunition that is a necessary part in the staging of an event, show, or other display that requires their use. Subject to a demonstrated need, as will be determined by the Holly Ridge Chief of Police, who shall have the authority to approve, disapprove, or restrict their use. Persons,

groups, or organizations wishing to conduct any activity involving any part of the above description must submit an application for a permit to the Chief of Police at least fifteen (15) days prior to the event, show, or display.

## **ARTICLE V. Parades, picket lines, and group demonstrations**

### **Section 4-20. Definitions**

For the purpose of this ordinance, the following terms shall have the definitions as described:

Block is that portion of any street lying between its intersections with other streets.

Parade is any parade, march, ceremony, show, exhibition or procession of any kind in or upon the public streets, sidewalks, alleys, parks, or other public grounds or places.

Person is any person, firm, corporation, partnership, association, or other organization, whether formal or informal.

Picket line is any two or more persons formed together for the purpose of making known any position or promotion of such persons, or on behalf of any organization or class of persons.

Group demonstrations is any assembly together or concert of action between or among two or more persons for the purpose of protesting any matter or of making known any position or promotion of such persons, or of, or on behalf of any organization or class of persons, or for the purpose of attracting attention to such assembly.

### **Section 4-21. Permit required**

It shall be unlawful for any person to organize, conduct or participate in any parade, picket line or group demonstration in or upon any street, sidewalk, alley, or other public place within the Town of Holly Ridge unless a permit therefore has been issued by the Town of Holly Ridge in accordance with the provisions of this ordinance.

### **Section 4-22. Requirements and issuance of permits**

The Chief of police or his designee is authorized to issue permits as required in the preceding Section, and in the issuance thereof he shall;

- (a) Require a written application for permit to be filed not less than twenty-four (24) hours in advance of such parade, picket line, or group demonstration. Such application shall be on a form prescribed by the Chief, shall require the application to be signed by the applicant or applicants, shall require that the applicant show the proposed time, place, purpose, and size of such parade, picket line or group demonstration and whether or not any minors below the age of eighteen (18) years shall participate.

- (b) Refuse to issue such permit when the activity or purpose stated in the application would violate any ordinance of the Town of Holly Ridge or statute of the State, or when the activity or purpose would constitute a clear and present danger to the public health or safety or would hinder or prevent the orderly movement of pedestrian or vehicular traffic on the streets, alleys, or sidewalks;
- (c) Specify in the permit whether minors below the age of eighteen (18) years will be permitted to participate. The Chief shall pass upon whether or not such minors may participate, and shall base his determination upon whether or not the purpose or time or place of the particular activity will be detrimental to or endanger the health, safety or welfare of such minors, or will interfere with their education;
- (d) Require that the application for a permit shall specify and the permit shall designate the person or persons in charge of the activity. Such person shall be required to accompany the parade, picket line, or group demonstration and shall carry such permit with him at that time. Such permit shall not be valid in the possession of any other person;
- (e) The permit may set the starting time, duration, speed of travel, and space between persons or vehicles in the parade, picket line, or group demonstration, may prescribe the portions or areas of streets, alleys, sidewalks, or other public places to be used; and may impose such other reasonable requirements as the Chief may prescribe for the control and free movement of pedestrian or vehicular traffic, or for the health, safety and property rights of the participants and the general public.
- (f) Among other considerations, consider and find as a requisite to issuance the following:
  - (1) The activity will not require excessive diversion of police from other necessary duties;
  - (2) The activity will not interfere with the right of property owners in the area to enjoy peaceful and lawful occupancy and use of their property;
  - (3) The activity can be conducted without reasonable interference with normal pedestrian or vehicular traffic in the area, and will not prevent normal police and fire protection to the public, and will not be likely to cause injury to persons or property or to provoke disorderly conduct or to create a public disturbance.

#### **Section 4-23. Certain activities prohibited**

The following acts or activities, when performed or undertaken in conjunction with or as a part of, any parade, picket line, or group demonstration, are hereby prohibited and declared unlawful:

- (a) The carrying on or about the person any firearm, or any weapon or article, including but not limited to blackjacks, nightsticks, or flashlights, which by their use might constitute a deadly weapon;
- (b) The taking or keeping of any dog or other vicious animal, whether leashed or unleashed.

#### **Section 4-24. Revocation of permit**

The Chief of Police shall revoke any permit granted for a parade, picket line, or group demonstration for any of the following causes:

- (a) The violation by any participant of Section 4 of this ordinance;
- (b) The failure to comply with the terms and conditions of the permit;

#### **Section 4-25. Interference prohibited**

No person shall hamper, obstruct, impede, or interfere with any parade, picket line, or group demonstration being conducted under authority of a permit duly issued by the Chief of Police.

#### **Section 4-26. Additional regulations applicable to picketing**

Picket lines and picketing shall be subject to the following additional regulations.

- (a) Picketing may be conducted only on the sidewalks reserved for pedestrian movement, and may not be conducted on a portion of a street used primarily for vehicular traffic;
- (b) Not more than ten (10) pickets promoting the same objective shall be permitted to use either of the two sidewalks within a single block at any one time;
- (c) Pickets may carry written or printed placards or signs not exceeding two (2) feet in width and two (2) feet in length promoting the objective for which the picketing is done; provided the words used are not derogatory or defamatory in nature.
- (d) Pickets must march in single file and not abreast and not march closer together than fifteen (15) feet, except in passing one another. Pickets shall not be allowed to walk more than five (5) feet from curb line and shall be in continuous motion.
- (e) If pickets promoting different objectives desire to use the same sidewalk for picketing and such use would result in the presence of more than ten (10) pickets thereon, the Chief of Police shall allot time to each group of pickets for the use of such sidewalk on an equitable basis.

#### **Section 4-27. Exceptions**

- (a) Funeral processions;
- (b) Students going to or from school classes or participating in educational or recreational activity where such activity is under the supervision and direction of proper school authorities.
- (c) Any governmental agency acting within the scope of its functions.

#### **Section 4-28. Enforcement**

The violation of any provision of this ordinance shall subject the violator to a civil penalty in the amount of \$500.00, to be paid to the Town of Holly Ridge within 24 hours of receipt of notice of the penalty. In addition, the Town of Holly Ridge may enforce this ordinance by injunctive or other equitable remedies.

### **ARTICLE VI. GOVERNING THE RETAIL SALE OF MALT BEVERAGES, UNFORTIFIED WINE, AND FORTIFIED WINE WITHIN THE CORPORATE LIMITS**

#### **Section 4-29. Hours during which sales of beer and wine are prohibited**

It shall be unlawful for any person to sell, or offer for sale, beer and wine in the city from 2:00 o'clock a.m. until 10:00 o'clock a.m. on each Sunday for on- or off-premises consumption pursuant to the licensed premises' permit and in accordance with State laws.

#### **Section 4-30. Consuming or displaying intoxicating liquor or alcoholic beverages**

It shall be unlawful for any person to consume or display any intoxicating liquor or alcoholic beverage as defined by Chapter 18B of the North Carolina General Statutes on any public road, alley, street, sidewalk, or highway with the city.

#### **Section 4-31. Disorderly conduct and public nuisances**

No person shall consume, serve, or drink wine, beer, whiskey, or alcoholic beverages of any kind on the public streets, boulevards, alleys, or in public buildings.

#### **Section 4-32. Fines and penalties**

Any person, firm, or corporation convicted of a violation of this ordinance shall be guilty of a misdemeanor and shall upon conviction be punished in addition to any other remedy by a fine of not more than five hundred dollars (\$500.00) or by imprisonment of not more than thirty (30) days, or by both such fine and imprisonment.



### **Section 4-33. Severability**

If any provision to this ordinance or the application thereof to any person circumstances is held to be invalid, such invalidity shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid provision or application and to this end the provisions of this ordinance are declared to be severable.

## **ARTICLE VII. REGULATE EXCESSIVE NOISE**

### **Section 4-34. Noise**

- (a) Subject to the provisions of this section, the creation of any unreasonably loud and disturbing noise in the Town of Holly Ridge is prohibited. Noise of such character, intensity and duration as to be detrimental to the health, safety, or welfare of any individual is prohibited.
- (b) The following acts, among others, are declared to be loud and disturbing noises in violation of this section, but each enumeration shall not be deemed to be exclusive.
  - (1) The use of any loud, boisterous or raucous language or shouting so as to annoy or disturb the quiet, comfort or repose of any person in the vicinity, such that a reasonably prudent person would recognize as likely to unreasonably disturb persons in the vicinity.
  - (2) The surrounding of any horn of signal device on any automobile, motorcycle, bus, or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal, the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unreasonable period of time.
  - (3) The playing of any radio, phonograph, CD player, or any musical instrument in such manner or with such volume, as to annoy or disturb the quiet, comfort or repose of any person in any dwelling, hotel, other type of residence, or in an area defined as a “public vehicular area” in NCGS 20-4.01 (32), (see definition after this section), such that a reasonably prudent person would recognize as likely to disturb the quiet, comfort or repose of any person in the vicinity to include a person in any business, dwelling, hotel, or other type of residence, or in an area defined as a “public vehicular area” in NCGS 20-4.01 (32)
  - (4) The keeping any animal which, by causing frequent or long

continued noise, shall disturb the comfort and repose of any person in the vicinity, such that a reasonably prudent person would recognize as likely to unreasonably disturb persons in the vicinity.

- (5) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud grating, grinding, rattling or other noise.
  - (6) The discharge of any weapon or any other explosive device that would disturb the comfort and repose of any person in the vicinity, such that a reasonable prudent person would recognize as likely to unreasonably disturb persons in the vicinity.
- (c) Penalty. Any person violating any provisions of this chapter shall be subject to a civil penalty of not more than \$500.00 after notification of violation. Each day of a continuing violation shall constitute a separate violation. Any person who violates any provision of this chapter shall be deemed guilty of a misdemeanor punishable pursuant to NCGS 14-4. Each day of a continuing violation shall constitute a separate violation.
- (e) Severability. If any one or more of the terms, provisions, covenants, or restriction of this ordinance shall be determined by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the terms provisions, covenants and restrictions of this shall remain in full force and effect and shall in no way be affected, impaired, or invalidated. If, moreover, any one or more of the provisions contained in this competent jurisdiction to be excessively broad as to duration, geographical scope, activity, or subject, it shall be construed, by limiting or reducing it, so as to enforceable to the extent compatible with then applicable law.

#### **Section 4-35. - Amplified sound.**

- (a) It shall be unlawful to operate or allow the operation of any sound amplification equipment in the public right-of-way, including streets or sidewalks, or in the public town controlled parks: (i) without having actual on-site possession of a permit issued by the Holly Ridge Police Department; or (ii) between the hours of 10:00 p.m. and 8:00 a.m. Sunday through Thursday or between 11:00 p.m. and 8:00 a.m. on Friday or Saturday. Sound amplification equipment operated pursuant to this subsection may not be located more than ten feet off the ground.
- (b) In addition to the person operating or allowing the operation of sound amplification equipment, the person to whom the permit was issued must be present at the location and during the times permitted and shall be liable for any and all violations.
- (c) An application for a permit pursuant to this subsection shall: (i) be submitted to the Holly Ridge Police Department at least one full business day but no more than seven calendar days before the permit time requested; and (ii) specify the proposed location of the sound amplification equipment and the date and time that the sound amplification will

begin and end. Permits shall be issued on a first come, first served basis, and no permit shall be denied based on the content of the speech of the applicant for the permit. A permit shall not be issued for a location that is within 100 feet of another location for which a permit has been issued for the same time or in or within 100 feet of the area permitted for a parade, picket line or group demonstration unless issued to the holder of the parade, picket line or group demonstration permit issued pursuant to Section 4-21.

- (d) The use of mobile sound amplification equipment (e.g., a car radio, unless the vehicle is parked) shall be exempt from the permitting requirement of this subsection and the prohibition of (ii) in the first paragraph of this subpart. Sound amplification produced in conjunction with a parade, picket line or group demonstration permit shall be exempt from this entire section.
- (e) The limitations on the operation of sound amplification equipment in subsection (a) of this section shall not apply to the operation of horns, sirens, or other emergency warning devices actually being used in emergency circumstances.

## **ARTICLE VIII. RESERVE POLICE UNIT**

### **Section 4-36. - Purpose**

- A. To define the role of the Reserve Police officer.
- B. To define the authority of the Reserve Police Officer
- C. To define the procedures for the officers working with full time officers.

### **Section 4-37. - Provisions for Reserve Unit.**

- A. Establishment of a Police Reserve Unit

The reserve police unit shall be a volunteer organization composed of as many members as may, from time to time, be determined by the Town Council.

- B. It shall be the authority of the Chief of Police to appoint and remove any members. The Chief of Police may appoint and suspend or dismiss any member for just cause. The reserve police unit shall be under the direct control of the Chief of Police, acting under the general supervision of the Town Manager.
- C. The reserve police unit shall not have a commanding officer within its rank, except for the Chief of Police and full time police officers. Each member of the reserve unit shall take the oath of office of a regular full time police officer. The Chief of Police shall provide for adequate training for the members of the reserve police unit and of the candidates for membership therein.

### **Section 4-38. - Duties of the Reserve Officer**

The duties of the reserve police unit, subject at all times to the direction, control, and supervision of the Chief of Police, shall be to assist the regular members of the Holly Ridge Police Department in enforcement of the law and maintaining the peace and order when called to active duty by the chief of Police or his duly authorized agent. The Chief of Police shall establish rules and regulations to govern the reserve police unit. The Chief of Police may prescribe other duties than those mentioned herein to be performed by the reserve police unit, with the approval of the Town Manager.

#### **Section 4-39. - Identification Card and Insignia**

An identification card and other such insignia or evidence of identification as the Chief of Police may prescribe shall be issued to each member of the reserve police unit, who must carry the card and other identification at all times when on active duty and surrender them upon termination of membership.

#### **Section 4-40. – Law Enforcement Powers**

No member of the reserve unit shall enforce or attempt to enforce any laws except when called to active duty.

#### **Section 4-41. – Powers of Arrest**

Members of the reserve police unit shall have the same powers of arrest which regular police officers have. This power, however, may not be exercised unless the reserve is on active duty.

#### **Section 4-42. – General Responsibilities of the Reserve Officer**

- A. The primary duty of the reserve police officer is to assist regular members of the police department in performance of their duties and to act under the supervision of the regular officers and to perform assigned tasks according to the policies and procedure of the Holly Ridge Police Department.
- B. A reserve police officer shall be responsible for efficient performance of these duties, and is subject to disciplinary action if such officer is unwilling or unable to carry out these duties according to departmental policy and procedure.
- C. Reserve officers shall exercise authority consistent with the obligations imposed by the oath of office and subject to the restrictions imposed by law and administrative rule and shall be accountable to their superior officers, promptly obeying all legitimate orders.
- D. Reserve officers shall work a minimum of 24 hours a month. The Chief of Police may approve less hours based on exceptional circumstances. Reserve officers will schedule their working hours through designated channels.
- E. Reserve officers shall maintain harmonious relationships with their associates by courteous and considerable demeanor, guarding themselves against envy, jealousy, or other unfriendly feelings and refraining from all unfriendly communications to their discredit.
- F. Reserve officers shall coordinate their efforts with other members of the reserve unit so that their team work may insure continuity of the purpose and maximum achievement of service program objectives.

## **ARTICLE IX. OBTAINING CRIMINAL HISTORY FOR ABC PERMIT APPLICANTS**

BE IT ORDAINED by the Town of Holly Ridge Town Council that the following ordinance is hereby adopted pursuant to the authority granted by the North Carolina General Statute 1B-904(f) which provides that the governing body of a city or county may designate an official of the city or county, by name or position, to make recommendations to the State ABC commission on behalf of the city or county concerning the suitability of a person or of a location for an ABC permit when the proposed location is within the City or County.

1. The purpose of this ordinance shall be to establish policy and procedures for persons applying for an ABC permit when the proposed location is within the Town of Holly Ridge.
  - a. The Chief of Police is designated as the official authorized to make recommendations on behalf of the governing body of the Town of Holly Ridge concerning the suitability of a person or of a location for an ABC permit within the Town of Holly Ridge's jurisdiction.
  - b. In order to make said recommendations, the Holly Ridge Police Department shall be authorized to seek state access to North Carolina State Bureau of Investigation/ Division of Criminal Investigation (SBI/DCI) Criminal History Record Information to obtain criminal history information on all persons applying for ABC permits for proposed locations within the Town of Holly Ridge.
  - c. The Holly Ridge Police Department will obtain said criminal history information on each applicant based on identification information regarding the applicant contained in the notice of permit application received from the State ABC Commission.
  - d. If said criminal history information reveals that an applicant has been convicted of any felony, a misdemeanor involving drugs or alcohol, or any offense in violation of Article 26 of Chapter 14 of the North Carolina General Statutes, the Holly Ridge Police Department will file a written objection to the issuance of the permit;
  - e. The State ABC Commission is the government agency responsible for the issuance of all ABC permits.
2. Any ordinance or any part of any ordinance in conflict with this ordinance, to the extent of such conflict, is hereby repealed.
3. Should any provision of this ordinance be declared invalid or unconstitutional by any court of any competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid

or unconstitutional.

4. This ordinance is adopted in the interest of public health, safety, and general welfare of the inhabitants of the Town of Holly Ridge, North Carolina, and shall be in full force and effect from and after its adoption.

## **ARTICLE X. CRIMINAL HISTORY**

This ordinance adopted by the Town of Holly Ridge Town Council is to provide policy and procedures for conducting criminal history checks through the North Carolina State Bureau of Investigation/ Division of Criminal Investigation (SBI/DCI) on final applicants for employment with the Town of Holly Ridge, final applicants for employment or volunteers with the Holly Ridge Fire Department, final applicants for volunteer internships with the Town of Holly Ridge, final applicants for coaches, assistant coaches or other volunteers working directly with children participating in the Town of Holly Ridge activities and events; persons applying for permits or license to operate adult establishments, dance halls, games rooms, massage parlors, wrecker services, ice cream vendors and as a canvasser, pawn broker, peddler or itinerant merchant, precious metal dealer, or taxi driver. This ordinance is adopted pursuant to the authority vested in the Town of Holly Ridge by the General Assembly of the State of North Carolina in Sections 153A-11 and 153A-12 of the North Carolina General Statutes.

1. In order to protect the citizens of the town and their properties, the procedure herein are established to provide for fingerprinting and criminal history checks on all final applicants for regular full-time and part-time positions in the town government, final applicants for employment or volunteers with the Holly Ridge Fire Department, final applicants for volunteer internships with the Town of Holly Ridge, final applicants for coaches, assistant coaches or other volunteers working directly with children participating in the Town of Holly Ridge activities and events; person applying for permits or license to operate adult establishments, dance halls, game rooms, massage parlors, wrecker services, ice cream vendors and as a canvasser, pawn broker, peddler or itinerant merchant, precious metal dealer or taxi driver. Subject to Division (c) of this section, employment with the Town of holly Ridge, employment with the Holly Ridge Fire Department, persons desiring to volunteer with the town or fire department, persons desiring to perform an internship as a volunteer with the Town of Holly Ridge, persons applying for permits or license to operate adult establishments, dance halls, game rooms, massage parlors, wrecker services, ice cream vendors and as a canvasser, pawn broker, peddler or itinerant merchant, precious metal dealer, or taxi driver may be denied for those persons convicted of any crime against a person or crimes against property where intent is an element, or any drug or gambling related offense.
  - a. The town manager, or designee, may conduct an investigation of any final candidate for a permanent full-time or part-time position with the town government, final candidate for permanent full-time

or part-time position with the Holly Ridge Fire Department, volunteers working directly with children, volunteers to the Holly Ridge Fire Department, final candidate for volunteer internships with the Town of Holly Ridge, persons applying for permits or licenses to operate adult establishments, dance halls, game rooms, massage parlors, wrecker services, ice cream vendors and as a canvasser, pawn broker, peddler or itinerant merchant, precious metal dealer, or taxi driver and it shall be a precondition of employment with the Town of Holly Ridge or the Holly Ridge Fire Department, for persons desiring to perform a volunteer internship with the Town of Holly Ridge and for persons that will be working or volunteering directly with children that an application for such position shall, upon request, provide fingerprints and all other necessary personal identification including a birth certificate, social security number and driver's license, if available, so that the Town Manager, or designee may cause a thorough search to be made of local and state criminal records to determine if the applicant has a history of criminal convictions or the crimes enumerated above by use of the Division of Criminal Information Network (DCI).

- b. The Holly Ridge Police Department shall provide the findings from the use of the DCI to the town manager, or designee, provided that all necessary agreements with the State Bureau of Investigations Division of Criminal Information have been executed.
- c. An evaluation of any crime for purposes of employment, volunteerism, internships, approval of permits or licenses, will be taken into account the nature and the circumstances of the offense and the time frame of the offense as it relates to the essential job functions or the position applied or volunteered for.
- d. Prior to denial or termination of employment as a full-time or part-time employee with the Town of Holly Ridge or Holly Ridge Fire Department or prior to the denial or termination of a person performing a volunteer internship, or prior to denial of a permit or license to operate a business within the Town of Holly Ridge of any person based upon criminal history record information (CHRI) received from the Holly Ridge Police Department, the town manager shall verify the existence of a record by either obtaining a certified public record or by submitting a fingerprint card of the individual to the criminal information and identification section for verification that the CHRI record belongs to the individual.

- 2. If this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which

can be given separate effect and to that end the provisions of this ordinances are declared to be severable.

3. Any ordinance or any part of any ordinance in conflict with this ordinance, to the extent of such conflict is hereby repealed.
4. This ordinance is adopted in the interest of public health, safety, and general welfare of the inhabitants of the Town of Holly Ridge, North Carolina, and shall be in full force and effect from and after its adoption.