

APPROVED 2/28/94 BY PLANNING BOARD

TITLE 1

Government and Administration

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CHAPTER 1

Mayor and Board of Commissioners

ARTICLE A

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ARTICLE A

General

Sec. 1-1-1 Governing body.

The governing body of the town shall consist of a mayor and board of commissioners of five (5) members. The governing body shall be charged with the general government and administration of the affairs of the town.

State Law Reference: Board to organize town government, G.S. 160A-146.

Sec. 1-1-2 Powers and duties generally.

The powers and duties of the governing body shall be as set out in the general statutes of North Carolina, the town charter, and the ordinances of the town.

Sec. 1-1-3 Mayor; duties.

The mayor shall be the chief executive officer of the town, and as such, shall perform the following duties:

- (1) Keep himself informed as to the town's business.
- (2) Preside over the meetings of the board of commissioners.
- (3) Sign all contracts, ordinances, resolutions, franchises, and all other documents as authorized by the board.
- (4) Appoint all committees and outline their duties, under the general direction of the board.
- (5) Make recommendations to the board concerning the affairs of the town, as he deems necessary.
- (6) Represent the town at ceremonies and other official occasions.
- (7) Perform other duties as authorized by the general statutes, the town charter and this code.

State Law Reference: Duties of the mayor, G.S. 160A-69.

Sec. 1-1-4 Selection and duties of the mayor pro tem.

At the first meeting after their election, the board of commissioners shall select one (1) of their number to act as mayor pro tem. The mayor pro tem shall have no fixed term of office, but as such, shall perform all the duties of the mayor in the mayor's absence or disability.

State Law Reference: Mayor pro tem, G.S. 160A-70.

Secs. 1-1-5 through 1-1-10 reserved.

ARTICLE B

Meetings

Sec. 1-1-11 Regular meetings; time and place.

The regular meetings of the board shall be held on the second Monday of each month at 7:30 p.m. at the town hall, unless otherwise designated by the board.

State Law Reference: Quorum, G.S. 160A-74; voting, G.S. 160A-75.

Sec. 1-1-12 Special meetings.

Special meetings of the board may be held according to the procedures set out in the applicable general statutes.

State Law Reference: Special meetings, G.S. 160A-71; notice of special meetings, G.S. 143-318.8.

Sec. 1-1-13 Adjourned meetings.

Any meeting of the board may be continued or adjourned from day to day, or for more than one (1) day.

## CHAPTER 2

### Administrative Offices

Section 1-2-1	Town clerk; duties.
Section 1-2-2	Deputy Town clerk; duties.
Section 1-2-3	Town attorney.
Section 1-2-4	Tax collector; duties.
Section 1-2-5	Finance officer.
Section 1-2-6	Utilities Director.
Section 1-2-7	Other officers and employees.

#### Sec. 1-2-1 Town clerk; duties.

The board shall appoint a town clerk. It shall be the duty of the clerk to:

- (1) Act as secretary to the board;
- (2) Keep a true record of all the proceedings of the board;
- (3) Keep the original of all ordinances in a book especially provided for that purpose;
- (4) Act as custodian for all the books, papers, records, and journals of the board;
- (5) Perform other duties as may be required by law of by the board; and
- (6) Perform the duties of the finance officer.

State Law Reference: Duties of the clerk specified, G.S. 160A-171; minutes to be kept, G.S. 160A-72.

#### Sec. 1-2-2 Deputy Town clerk; duties.

The board shall appoint a deputy town clerk. It shall be the duty of the deputy town clerk to:

- (1) To exercise and to perform any powers and duties of the town clerk that may be specified by the town board or town clerk; and
- (2) Perform other duties as may be required by law or by the board; and
- (3) Perform the duties of the finance officer at the direction of said finance officer or town board.

#### Sec. 1-2-3 Town attorney.

The board shall appoint a town attorney whose duties shall be to:

- (1) Prosecute or defend any and all suits or actions at law or equity to which the town may be a party, or in which it may be interested, or which may be brought against, or by, any officer of the town, or in the capacity of the person as an officer of the town;
- (2) See to the full enforcement of all judgments or decrees rendered or entered in favor of the town;

(3) See to the completion of all special assessment proceedings and condemnation proceedings;

(4) Draft or review any contract, lease or other document or instrument to which the town may be a party, and approve all ordinances and resolutions of the board as to form;

(5) At the request of the board, draft ordinances covering any subjects within the power of the town;

(6) Attend meetings of the board upon request; and

(7) Perform any other duties required of him by G.S. 160A-173 and other laws and ordinances.

State Law Reference: Duties of the attorney, G.S. 160A-173.

Sec. 1-2-4 Tax collector; duties.

(a) The board shall provide for the appointment of a tax collector, whose duties shall be to:

(1) Collect all taxes and assessments due to the town;

(2) Make an accounting to the town finance officer at the end of each month;

(3) Pay over to the town finance officer such money as is collected for the account of each separate fund according to the tax levy;

(4) Deliver a list of all unpaid taxes with the reason therefor as ascertainable to the board of commissioners;

(5) Supply the mayor and board with any information as they may require relative to the performance of his duties;

(6) Make periodic reports to the board listing therein all funds collected;

(7) Perform other duties required by law, or as the board may direct.

(b) The town may contract with the county for the collection of taxes.

State Law Reference: Duties of tax collector, G.S. 105-349, 350.

Sec. 1-2-5 Finance officer.

The board shall provide for the appointment of a finance officer, whose duties shall be to:

(1) Keep the books and accounts of the town;

(2) Receive and disburse all monies of the town as required under state law;

(3) Countersign and preaudit all checks, drafts, contracts, purchase orders, or other documents obligating town funds;

(4) Report to the board concerning the finances of the town, as they may require;

(5) Maintain all records of the bonded debt of the town and maintain sinking funds;

- (6) Supervise the investment of idle funds;
- (7) Perform other duties assigned by the general statutes, the town charter, or by the board; and
- (8) The board shall appoint a deputy finance officer, whose duties shall be to assist the town finance officer in all of the above duties.

State Law Reference: Duties of the finance officer, G.S. 159-25; fiscal control generally, G.S. 159-7 et seq.

Cross Reference: Clerk performs duties of finance officer, Sec. 1-2-1 (6).

Sec. 1-2-6 Utilities Director.

The board shall appoint a utilities director for the town, whose duties shall be to:

- (1) Be responsible for the operation of the town's water and wastewater facilities; and
- (2) Perform daily inspections and routine services required at the water plant, wastewater treatment plant, and other utility locations in the town; and
- (3) Perform minor repairs or arrange for major repairs to the facilities; and
- (4) To conduct periodic testing as required by local, state and federal government authorities; and
- (5) To supervise monthly meter readings and the keeping of records; and
- (6) To monitor and direct the implementation of the town's water and wastewater ordinance; and
- (7) To carry out such other duties as assigned by the town board or town Clerk, including right of way maintenance, weed ordinance enforcement, and other such duties; and
- (8) Cooperate with state and federal officials in inspections and visits of town facilities; and
- (9) To attend monthly meetings of the town board and report the operations of all of the utilities department.

Sec. 1-2-7 Other Officers and Employees.

Such other officers and employees as are deemed necessary shall be appointed by the board at the first meeting after each election. All officers and employees shall serve at the pleasure of the board and receive such compensation as from time to time may be prescribed by the board.

CHAPTER 3

Finance and Taxation

ARTICLE A

Purchasing

§ 1-3-1 Procedure for disbursement.  
§§ 1-3-2 through 1-3-10 reserved.

ARTICLE B

(Reserved)

ARTICLE A

Purchasing

Sec. 1-3-1 Procedure for disbursement.

(a) In accordance with the Local Government Budget and Fiscal Control Act, no bill or claim against the town may be paid unless it has been approved by the officer or employee responsible for the function or agency to which the expense is charged. No check or draft of the town shall be valid unless it bears on its face the certificate of the clerk as follows:

"This disbursement has been approved as required by the Local Government Budget and Fiscal Control Act."

(b) No contract, agreement or purchase order shall be valid unless it bears the clerk's certificate as follows:

"This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act."

State Law Reference: Preaudit of disbursements required, G.S. 159-28.

Secs. 1-3-2 through 1-3-10 reserved.

ARTICLE B  
(Reserved)



CHAPTER 4

PLANNING BOARD ESTABLISHED

- Section 1-4-1 Establishment and procedure for appointment, terms
- Section 1-4-2 Duties of Planning Board
- Section 1-4-3 Planning Board to serve as Historic District Commission
- Section 1-4-4 Quorum, rules of procedure

Sec. 1-4-1 Establishment and procedure for appointment, terms.

(A) Pursuant to N.C.G.S. Section 160A-361, there is hereby established a Planning Board for the Town of Bath.

(B) Members of the Planning Board shall be appointed by the Town Board. The Board shall consist of five (5) members who shall reside within the corporate limits of the Town of Bath, and two (2) members who shall reside in the Town of Bath's extra territorial zoning jurisdiction, who shall be appointed by the County Commissioners of Beaufort County upon recommendation of the Town Board. Each member shall serve a term of three (3) years, and shall be eligible for appointment for two (2) successive three (3) year periods. Said three (3) year terms shall be staggered by the Town Board. The Town Board shall annually appoint the Chairman of the Planning Board.

Sec. 1-4-2 Duties of Planning Board

The Planning Board shall advise the Town Board on the following:

- (1) To make studies of the Town of Bath and its extra territorial jurisdiction and the surrounding areas;
- (2) To determine objectives to be sought in the development of these study areas;
- (3) To prepare and adopt plans for achieving these objectives;
- (4) To develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
- (5) To advise the Board concerning the use and amendment of means for carrying out plans;
- (6) To exercise any function in the administration and enforcement of various means for carrying out plans that the Board may direct;
- (7) To perform any other related duties that the Board may direct;

Sec. 1-4-3 Planning Board to serve as Historic District Commission

The Planning Board of the Town of Bath is hereby designated as the Historic District Commission to exercise those duties contained in Section 8.04 et. seq. of the Bath Zoning Ordinance, and other related duties of the Historic District Commission of the Town of Bath. Said Historic District Commission shall maintain separate minutes of their meetings and actions.

Sec. 1-4-4 Quorum, rules of procedure

A majority of the members of the Planning Board and Historic District Commission shall constitute a quorum for the purposes of conducting its business. A majority of the members present shall be required to affirmatively enact any measure before the Board and Commission.

CHAPTER 5

Use of the Code and Penalties

- § 1-4-1 How code designated and cited.
- § 1-4-2 Definitions and rules of construction.
- § 1-4-3 Provisions considered as continuations of existing ordinances.
- § 1-4-4 Section designations.
- § 1-4-5 Effect of repeal or expiration of ordinances.
- § 1-4-6 Criminal penalty, not exclusive remedy; continuing violations.
- § 1-4-7 Severability of parts of code.
- § 1-4-8 Amendments to code; effect of new ordinances; amendatory language.
- § 1-4-9 Damaging ordinances prohibited.

Sec. 1-4-1 How code designated and cited.

The provisions embraced in this and the following chapters and sections shall constitute and be designated the "Code of Ordinances, Town of Bath, North Carolina," and may be so cited.

State Law Reference: As to admission of code into evidence, see G.S. 160A-79.

Sec. 1-4-2 Definitions and rules of construction.

In the construction of this code and of all ordinances, the following definitions and rules of construction shall be observed unless inconsistent with the manifest intent of the board of commissioners or the context clearly requires otherwise.

(1) Board. The words "the board" shall mean the board of commissioners of the town.

(2) Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day is Saturday, Sunday or a legal holiday, that day shall be excluded.

(3) County. The word "county" shall mean the County of Beaufort, in the State of North Carolina, except as otherwise provided.

(4) Gender. Words importing the masculine gender shall include the feminine and neuter.

(5) Joint authority. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving authority to a majority of those persons or officers.

(6) Mayor. The words "the mayor" shall mean the mayor of the town.

(7) Month. The word "month" shall mean a calendar month.

(8) Number. Words used in the singular include the plural, and words used in the plural include the singular number.

(9) Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in certain cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

(10) Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of the building or land.

(11) Person. The word "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

(12) Personal property. The words "personal property" include every species of property except real property as herein defined.

(13) Preceding, following. The words "preceding" and "following" shall mean next before and next after respectively.

(14) Property. The word "property" shall include real and personal property.

(15) Real property. "Real property" shall include lands and tenements and hereditaments.

(16) Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

(17) Signature. The words "signature" or "subscription" include a mark when the person cannot write.

(18) Street. The word "street" shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, or bridge and the approaches thereto within the town.

(19) Tenant. The words "tenant" or "occupant" applied to a building or land shall include any person who occupies the whole or a part of the building or land whether alone or with others.

(20) Time. Words used in the past or present tense include the future as well as the past and present.

(21) Town. The words "the town" shall mean the Town of Bath, in Beaufort County, North Carolina, except as otherwise provided.

(22) Writing. The words "writing" and "written" shall include printing and any other mode of representing words and letters.

(23) Year. The word "year" shall mean a calendar year.

State Law Reference: Rules of construction, G.S. 12-3; computation of time, G.S. 1-493.

Sec. 1-4-3 Provisions considered as continuations of existing ordinances.

The provisions appearing in this code, so far as they are the same as ordinances adopted prior to this code and included herein, shall be considered as continuations thereof and not as new enactments.

Sec. 1-4-4 Section designations.

The underlined headings of the several sections of this code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of these sections nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of these sections, including the catchlines, are amended or reenacted.

Sec. 1-4-5 Effect of repeal or expiration of ordinances.

(a) The repeal of an ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued, any offense committed, any penalty or punishment incurred or any proceeding commenced before the repeal took effect or the ordinance expired.

(b) When an ordinance which repeals another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

Sec. 1-4-6 Criminal penalty, not exclusive remedy; continuing violations.

(a) In accordance with G.S. 160A-175, violation of any provision hereof shall be a misdemeanor as provided in G.S. 14-4, punishable upon conviction by a fine not exceeding \$50 or by imprisonment not exceeding 30 days. An ordinance may provide by express statement that the maximum fine or term of imprisonment to be imposed for its violation shall be some figure or number of days less than the maximum penalties prescribed by G.S. 14-4.

(b) An ordinance contained herein may provide for its enforcement by other remedies, as authorized in G.S. 160A-175, including the imposition of civil fines, the ordering of specific equitable relief, including injunctions, or a combination of remedies. In addition, any ordinance contained herein may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.

(c) An ordinance may provide, when appropriate, that each day's continuing violation shall be a separate and distinct offense.

Sec. 1-4-7 Severability of parts of code.

It is hereby declared to be the intention of the board that the sections, paragraphs, sentences, clauses and phrases of this code are severable and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, the unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this code since the same would have been enacted by the board without the incorporation

in this code of an unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Sec. 1-4-8 Amendments to code; effect of new ordinances; amendatory language.

(a) All ordinances passed subsequent to this code of ordinances which amend, repeal or in any way affect this code of ordinances, may be numbered in accordance with the numbering system of this code and printed for inclusion herein. In the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted, in the case of repeal, shall be prima facie evidence of subsequent ordinances until a time that this code of ordinances and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the board.

(b) Amendments to any of the provisions of this code may be made by amending these provisions by specific reference to the section number of this code in the following or similar language: "That section \_\_\_\_\_ of the Code of Ordinances, Town of Bath, is hereby amended to read as follows: \_\_\_\_\_." The new provisions shall then be set out in full as desired.

(c) In the event a new section not heretofore existing in the code is to be added, the following or similar language may be used: "That the Code of Ordinances, Town of Bath is hereby amended by adding a section to be numbered \_\_\_\_\_, which section reads as follows: \_\_\_\_\_." The new provisions shall then be set out in full as desired.

Sec. 1-4-9 Damaging ordinances prohibited.

No person shall tear or deface any of the town ordinances.