

### **TITLE III: ADMINISTRATION**

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## **CHAPTER 30: BOARD OF COMMISSIONERS**

### **Section**

#### ***Board of Commissioners***

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### **BOARD OF COMMISSIONERS**

#### **§ 30.01 ORGANIZATIONAL MEETING.**

***(A) Meeting date and time; oaths; need for quorum.***

(1) The organizational meeting of the Board shall be held on the date and at the time of the first regular meeting in December after the results of each regular municipal election have been certified pursuant to G.S. §§ 163-279 *et seq.* At the organizational meeting, the newly elected Mayor and Commissioners shall qualify by taking the oath of office prescribed in Article VI, § 7, of the Constitution.

(2) The organization of the Board shall take place notwithstanding the absence, death, refusal to serve, failure to qualify, or nonelection of one or more members, but at least a quorum of the members must be present.

(G.S. § 160A-68) (1973 Code, § 2.1)

(B) *Mayor Pro Tempore; disability of Mayor.* At the organizational meeting, the Board shall elect from its members a Mayor Pro Tempore to serve at the pleasure of the Board. A Commissioner serving as Mayor Pro Tempore shall be entitled to vote on all matters and shall be considered a Commissioner for all purposes, including the determination of whether a quorum is present. During the absence of the Mayor, the Board may confer upon the Mayor Pro Tempore any of the powers and duties of the Mayor. If the Mayor should become physically or mentally incapable of performing the duties of his or her office, the Board may by unanimous vote declare that he or she is incapacitated and confer any of his or her powers and duties on the Mayor Pro Tempore. Upon the Mayor's declaration that he or she is no longer incapacitated, and with the concurrence of a majority of the Board, the Mayor shall resume the exercise of his or her powers and duties.

(G.S. § 160A-70) (1973 Code, § 2.2)

### **§ 30.02 REGULAR MEETINGS.**

The regular meetings of the Mayor and Board of Commissioners of the Town of Bailey shall be held on the first Tuesday of each month at 7:00 p.m. at the Town Hall, unless otherwise designated by the Board.

(1973 Code, § 2.3)

### **§ 30.03 SPECIAL MEETINGS.**

The Mayor, the Mayor Pro Tempore, or any two members of the Board may at any time call a special Board meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the Mayor and each Commissioner, or left at his or her usual dwelling place, at least six hours before the meeting. Special meetings may be held at any time when the Mayor and all members of the Board are present and consent thereto or when those not present have signed a written waiver of notice. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or have signed a written waiver of notice.

(G.S. § 160A-71) (1973 Code, § 2.4)

**§ 30.04 QUORUM.**

A majority of the membership of the Board of Commissioners shall constitute a quorum and no official business of the town shall be transacted by the Board unless a quorum is present. The number required for a quorum shall not be affected by vacancies. A member who has withdrawn from a meeting shall be counted as present for purposes of determining whether or not a quorum is present.  
(G.S. § 160A-74) (1973 Code, § 2.5)

**§ 30.05 MINUTES.**

It shall be the duty of the Clerk to be present at all meetings of the Town Board to keep, in a book provided for that purpose, full and accurate minutes of all the proceedings of the Board. The minutes shall be open to the inspection of the public. The results of each vote shall be recorded in the minutes and, upon the request of any member of the Board, the ayes and noes upon any question shall be taken.  
(G.S. § 160A-72) (1973 Code, § 2.6)

**§ 30.06 MAYOR TO PRESIDE OVER BOARD.**

The Mayor shall preside at all meetings of the Board, and in his or her absence the Mayor Pro Tempore shall preside.  
(G.S. § 160A-70) (1973 Code, § 2.7)

**§ 30.07 MAYOR NOT TO VOTE, EXCEPT TO BREAK TIE.**

The Mayor shall not have the right to vote on any question before the Board, except when there are equal numbers of votes in the affirmative and in the negative.  
(G.S. § 160A-69) (1973 Code, § 2.8)

**§ 30.08 COMMITTEES.**

The Mayor and Commissioners may create the committees of the Board for special purposes as they deem best.  
(1973 Code, § 2.9)

**§ 30.09 VOTING.**

(A) No member shall be excused from voting, except upon matters involving the consideration of his or her own financial interest or official conduct. In all other cases, a failure to vote by a member who is physically present in the Board chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and allowances of members of the Board is not a matter involving a member's own financial interest or official conduct.

(B) An affirmative vote equal to a majority of all the members of the Board not excused from voting on the question in issue (including the Mayor's vote in case of an equal division) shall be required to adopt an ordinance, take any action having the effect of an ordinance, authorize or commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of the town. In addition, no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced, except by an affirmative vote equal to or greater than 2/3 of all the members of the Board (not including the Mayor).

(G.S. § 160A-75) (1973 Code, § 2.10)

**§ 30.10 FRANCHISES; TECHNICAL ORDINANCES.**

(A) No ordinance making a grant, renewal, extension, or amendment of any franchise shall be finally adopted until it has been passed at two regular meetings of the Board, and no grant, renewal, extension, or amendment shall be made otherwise than by ordinance.

(B) (1) Any published technical code or any standards or regulations promulgated by any public agency may be adopted in an ordinance by reference, subject to G.S. § 143-138(e). A technical code or set of standards or regulations adopted by reference in an ordinance shall have the force of law within the town.

(2) Official copies of all technical codes, standards, and regulations adopted by reference shall be maintained for public inspection in the office of the Clerk.

(G.S. § 160A-76) (1973 Code, § 2.11)

**TOWN ORDINANCES**

**§ 30.25 EFFECTIVE DATE.**

All ordinances shall be effective after the ratification thereof, except ordinances specifying some other effective date or ordinances required by state law to be effective only after having met specific date requirements.

(G.S. § 160A-75) (1973 Code, § 2.12)

**§ 30.26 ORDINANCES CONFINED TO ONE SUBJECT.**

All ordinances shall be confined to one subject, except appropriation ordinances which shall be confined to the subject of appropriations only.

(1973 Code, § 2.13)

**§ 30.27 OFFICIAL COPY.**

(A) A true copy of an ordinance, which has been duly enacted by the Board, signed by the Mayor, and attested to by the Clerk, shall be known as an official copy of any ordinance for the town.

(B) All ordinances or a true copy thereof shall be inserted in this code in the proper chapter.

(1973 Code, § 2.14)

**§ 30.28 ORDINANCE BOOK.**

The Clerk shall file a true copy of each ordinance, until it is codified in this code, in an ordinance book separate and apart from the Board's minute book. The ordinance book shall be appropriately indexed and maintained for public inspection in the office of the Clerk.

(G.S. § 160A-78) (1973 Code, § 2.15)

**§ 30.29 DAMAGING ORDINANCES PROHIBITED.**

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

(1973 Code, § 1.7) Penalty, see § 10.99



## **CHAPTER 31: TOWN OFFICERS AND EMPLOYEES**

### **Section**

- 31.01 Office of Mayor
- 31.02 Office of Clerk-Treasurer
- 31.03 Other officers and employees

### **§ 31.01 OFFICE OF MAYOR.**

It shall be the duty of the Mayor to cause all ordinances of the town to be enforced, and to attend and preside over all meetings of the Board. It shall further be the duty of the Mayor, within 30 days after the close of each year, to require a report to the Board of Commissioners from the various departments of the town government for the previous year and recommend adjustments as he or she may see fit, and the Mayor shall perform other duties as the Board may from time to time require. The Mayor shall be the chief executive officer of the town.

(G.S. § 160A-69) (1973 Code, § 2.16)

#### ***Statutory reference:***

*For similar provisions, see G.S. § 160A-69*

### **§ 31.02 OFFICE OF CLERK-TREASURER.**

(A) The Clerk-Treasurer (referred to in this code as the "Clerk") shall be appointed annually by the Board of Commissioners.

(B) The Clerk shall:

- (1) Give notice of meetings of the Board;
- (2) Attend all meetings of the Board and regularly and fairly record all of its proceedings as provided in § 30.05 hereof;
- (3) Keep an ordinance book as provided in § 30.28 hereof;

(4) Keep true, accurate, and just books of accounts of the dealings and transactions of the town, which books shall show at all times the true condition of the town, its resources and liabilities, and the disposition and use of the monies coming under the control of the town;

(5) Keep or cause to be kept in a safe place all monies, records, and accounts;

(6) Disburse funds for the various purposes of the town only when an appropriation for that purpose has been made in the annual budget and the disbursement is authorized by the Board of Commissioners; and

(7) Perform other duties as the Board may from time to time require.

(G.S. § 160A-171) (1973 Code, § 2.17)

***Statutory reference:***

*Budget officer, see G.S. § 159-7*

### **§ 31.03 OTHER OFFICERS AND EMPLOYEES.**

Other officers and employees that are deemed necessary shall be appointed annually by the Board of Commissioners. All officers and employees shall serve at the pleasure of the Board and receive compensation as, from time to time, may be prescribed by the Board.

(G.S. § 160A-146) (1973 Code, § 2.18)

## CHAPTER 32: TOWN POLICIES

### Section

#### *Emergencies*

- 32.01 State of emergency; curfew authorized
- 32.02 Enforcement

#### **EMERGENCIES**

##### **§ 32.01 STATE OF EMERGENCY; CURFEW AUTHORIZED.**

(A) A state of emergency shall be deemed to exist whenever, during times of great public crisis, disaster, rioting, catastrophe, or similar public emergency, for any reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives or property.

(B) In the event of an existing or threatened state of emergency endangering the lives, safety, health, and welfare of the people within the Town of Bailey, or threatening damage to or destruction of property, the Mayor of the Town of Bailey is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of a state of emergency, and, in order to more effectively protect the lives and property of people within the Town of Bailey, to place in effect any or all of the restrictions hereinafter authorized.

(C) The Mayor is hereby authorized and empowered to limit, by the proclamation, the application of all or any part of the restrictions to any area specifically designated or described within the corporate limits of the town and to specific hours of the day or night; and to exempt, from all or any part of the restrictions, law enforcement officers, firefighters, and other public employees, doctors, nurses, and employees of hospitals and other medical facilities; on-duty military personnel, whether state or federal; on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of the people within the town.

(D) The Mayor shall proclaim the end of the state of emergency, or all or any part of the restrictions imposed, as soon as circumstances warrant or when directed to do so by the Board of Commissioners.

(E) During the existence of a proclaimed state of emergency, the Mayor may impose, by proclamation, any or all of the following restrictions:

(1) Prohibit or regulate the possession off one's own premises of explosives, firearms, ammunition, or dangerous weapons of any kind, and prohibit the purchase, sale, transfer or other disposition thereof;

(2) Prohibit or regulate the buying or selling of beer, wine, or intoxicating beverages of any kind, and their possession or consumption off one's own premises;

(3) Prohibit or regulate any demonstration, parade, march, vigil, or participation therein from taking place on any of the public ways or upon any public property;

(4) Prohibit or regulate the sale of gasoline, kerosene, naphtha, or any other explosive or flammable fluids or substances;

(5) Prohibit or regulate travel upon any public street, alley, or roadway or upon any other public property, except by those in search of medical assistance, food, or other commodity or service necessary to sustain the well-being of themselves or their families or some member thereof; and/or

(6) Prohibit or regulate the participation in or carrying on of any business activity, and prohibit or regulate the keeping open of places of business, places of entertainment, and any other places of public assembly.

(F) Any proclamation may be extended, altered, or repealed in any particular during the continued or threatened existence of a state of emergency by the issuance of a subsequent proclamation.

(G) During the existence of a proclaimed state of emergency, it shall be unlawful for any person to violate any provision of any restriction imposed by any proclamation authorized by this section.  
(1973 Code, § 2.22)

## **§ 32.02 ENFORCEMENT.**

The Mayor of the town and, in his or her absence, the Mayor Pro Tempore and, in the absence of both officials, the Chief of Police of the town are hereby authorized to enforce § 32.01 for periods of time as they shall deem necessary.  
(1973 Code, § 2.23)

## **CHAPTER 33: POLICE DEPARTMENT**

### **Section**

- 33.01 Organization
- 33.02 Board to have control
- 33.03 Chief of Police
- 33.04 Oath of office; holding other offices
- 33.05 Uniforms
- 33.06 Powers and duties of police officers
- 33.07 Extraterritorial jurisdiction of police officers
- 33.08 Resisting police prohibited

### **§ 33.01 ORGANIZATION.**

The Police Department of the town shall consist of a Chief, and as many police officers as the Board of Commissioners shall from time to time determine and appoint, and as many special police officers as the Mayor and Board may deem necessary to appoint for special purposes.  
(1973 Code, § 3.1)

### **§ 33.02 BOARD TO HAVE CONTROL.**

(A) The Board of Commissioners shall have general supervision over the Police Department. The Board may suspend, for cause, any member of the Police Department until the next regular meeting, at which time final disposition shall be made.

(B) It is hereby declared the duty of every member of the Town Board to assist the police officer in the discharge of his or her duty by taking cognizance of and reporting all violations of the ordinances of the town that may come under his or her observation to the police with the names of the witnesses thereto, to the end that the person so violating the ordinances, or any of them, may be brought to justice.  
(1973 Code, § 3.2)

**§ 33.03 CHIEF OF POLICE.**

(A) The Chief shall have control over the Police Department, under the supervision of the Board of Commissioners.

(B) The Chief shall keep the Board informed of the Department's activities and make the reports that the Board may from time to time require, and he or she shall perform the other duties as may be required of him or her by the Board.

(1973 Code, § 3.3)

**§ 33.04 OATH OF OFFICE; HOLDING OTHER OFFICES.**

(A) Each person appointed or employed as Chief of Police, police officer, or auxiliary police officer shall take and subscribe, before some person authorized by law to administer oaths, the oath of office required by Article VI, § 7, of the Constitution.

(B) The oath shall be filed with the Clerk.

(C) The offices of Chief of Police, police officer, and auxiliary police officer may be held concurrently with any other appointive office, pursuant to Article VI, § 9, of the Constitution.

(1973 Code, § 3.4)

**§ 33.05 UNIFORMS.**

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

(1973 Code, § 3.5)

**§ 33.06 POWERS AND DUTIES OF POLICE OFFICERS.**

Each police officer shall:

(A) Have within the corporate limits of the town all of the powers invested in law enforcement officers by statute or common law;

(B) Have power to serve all civil and criminal process that may be directed to him or her by any officer of the General Court of Justice;

(C) Rigidly enforce all laws, ordinances, and regulations of the town and the State of North Carolina and report each and every violation thereof to the Mayor; and

(D) At all times preserve the peace and protect the property and the safety of the citizens of Bailey.  
(G.S. § 160A-285) (1973 Code, § 3.6)

**§ 33.07 EXTRATERRITORIAL JURISDICTION OF POLICE OFFICERS.**

(A) In addition to their authority within the corporate limits, police officers shall have all the powers invested in law enforcement officers by statute or common law within one mile of the corporate limits of the town, and on all property owned by or leased to the town wherever located.

(B) When the offense is committed within the corporate limits of the town, or within its extraterritorial jurisdiction, under circumstances that would authorize a police officer to arrest the offender without a warrant, the officer may pursue the offender outside the corporate limits and outside the town's extraterritorial jurisdiction for a distance of not more than three miles from the corporate limits for the purposes of making an arrest. Any officer pursuing an offender outside the corporate limits or extraterritorial jurisdiction of the town shall be entitled to all of the privileges, immunities, and benefits to which he or she would be entitled if acting within the town, including coverage under the worker's compensation laws.

(G.S. § 160A-286) (1973 Code, § 3.7)

**§ 33.08 RESISTING POLICE PROHIBITED.**

No person shall resist the police while in the discharge of their duty by force, words or threats, or any attempt to excite others to resistance, or in any other manner obstruct them in the performance of their duty.

(1973 Code, § 3.8) Penalty, see § 10.99



## CHAPTER 34: FINANCE AND PURCHASING

### Section

- 34.01 Disbursement of funds
- 34.02 Purchasing

#### § 34.01 DISBURSEMENT OF FUNDS.

No money shall be disbursed from the town treasury except on order of the Board in session, and then only if the item for which the disbursement is made has been provided for in the annual budget, except in the case of an extreme emergency.

(1973 Code, § 2.20)

***Statutory reference:***

*Local government budget and fiscal control act, see G.S. §§ 159-7 et seq.*

#### § 34.02 PURCHASING.

(A) Before any order is given for items to be paid by the town or any purchase made by any town employee, a purchasing order must first be obtained from the Clerk.

(B) Any town employee purchasing goods without a purchase order from the Clerk will be held responsible for the cost of same.

(1973 Code, § 2.21)

