

CHARTER

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Editor's note:

Printed herein is the Charter of the Town of Cape Carteret being Session Laws 1959, chapter 727, as adopted by the General Assembly on June 3, 1959, and effective on the same date. Amendments to the original Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catch lines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

SEC. 1. INCORPORATION AND CORPORATE POWERS.

(A) The inhabitants of the Town of Cape Carteret in Carteret County, North Carolina, within the boundaries as established in section 3 of this Charter or as hereafter established in the manner provided by law, shall be a body politic and corporate by name the Town of Cape Carteret and under that name shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property within or without its boundaries for any municipal purpose, in

fee simple or lesser interest or estate, by purchase, gift, devise, lease or condemnation and may sell, lease, hold, manage and control such property as its interests may require; and, except as prohibited by the Constitution of North Carolina or restricted by this Charter, the Town of Cape Carteret shall have and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The following shall be deemed to be a part of the powers conferred upon the Town of Cape Carteret by this section:

(1) To levy, assess and collect taxes and to borrow money within the limits prescribed by general law; and to levy and collect special assessments for benefits conferred.

(2) To furnish all local public services; to purchase, hire, construct, own, maintain and operate or lease local public utilities; to acquire, by condemnation or otherwise, within or without the corporate limits, property necessary for any such purposes, subject to restrictions imposed by general law for the protection of other communities; and to grant local public utility franchises and regulate the exercise thereof.

(3) To make local public improvements and to acquire, by condemnation, or otherwise, property within or without its corporate limits necessary for such improvements; and also to acquire an excess over that needed for any such improvement, and to sell or lease such excess property with restrictions, in order to protect and preserve the improvement.

(4) To issue and sell bonds on the security of any such excess property, or of any public utility owned by the town, or of the revenue thereof, or of both, including the case of a public utility, if deemed desirable by the town, a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate such utility.

(5) To adopt and enforce within its limits local police, sanitary and other similar regulations not in conflict with general laws.

(B) Except as otherwise provided in this act the Board of Commissioners shall have authority to determine by whom and in what manner the powers granted by this section shall be exercised.

SEC. 2. ENUMERATED POWERS NOT EXCLUSIVE.

The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the Town of Cape Carteret shall have, and may exercise, all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate. All powers of the town, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed therein, then in the manner provided by ordinance or resolution of the Board of Commissioners.

SEC. 3. CORPORATE LIMITS.

The corporate limits of the town shall be as follows:

Located in White Oak Township, Carteret County, State of North Carolina, and beginning at the intersection of the northern shore line of Bogie Sound and the eastern right of way of N.C. 58 as established by N.C. Highway Commission Project 6.1610019 as recorded on pages 19 and 20 in the Carteret County Volume of the Commission's Right of Way Plans Book

and running thence from the beginning in a northerly direction along and with the said established right of way approximately 3,550 feet to its intersection with the northern right of way of N.C. Highway 24; thence continuing in a northerly direction along and with the said established right of way approximately 2,150 feet to its intersection with the city limit line as shown on page 19 of the said Right of Way Plans Book; thence north 42 degrees 04 minutes east with a line shown on a map entitled *Area Annexed to Town of Cape Carteret* prepared by R.T. Burney & Associates and recorded in Map Book 8, page 7, said map being hereinafter referred to as Burney's Map, for a distance of approximately 50 feet to a corner of the Sugae Moore O'Brien property; thence with the following lines as shown on Burney's Map: north 83 degrees 03 minutes east along and with the O'Brien line 3,292.82 to Rocky Run; up Rocky Run in a northwesterly direction approximately 1,850 feet to a corner of Lionel Pelletier's property; north 55 degrees 53 minutes east along and with Pelletier's line 703 feet to the westerly edge of S.R. 1259 (Old N.C. Highway 58); along and with said edge in a northerly direction 1,116.45 feet to the extended centerline of S.R. 1259; north 22 degrees 47 minutes west along and with the extended centerline 1,368 feet to the extended southern property line of C. Rose; north 88 degrees 11 minutes east and with Rose's southern property line 278.5 feet; north 22 degrees 47 minutes west along and with Rose's eastern property line 238 feet; south 88 degrees 11 minutes west with Rose's northern property line 228.5 feet to the eastern right of way of S.R. 1259; north 22 degrees 47 minutes west along and with said eastern right of way 439.7 feet to Raskett's property; north 86 degrees 17 minutes east along and with Raskett's line 42 feet; north 35 degrees 30 minutes east along and with Raskett's line 570 feet to Machine Branch; down Machine Branch, with its various courses, in a northerly direction approximately 1,450 feet to Pettiford Creek; up Pettiford Creek, with its various courses, in an easterly direction approximately 8,000 feet to a concrete monument marking a corner of the F.F. Guthrie Property; south 17 degrees 53 minutes east along and with the Guthrie boundary 1,261.83 feet; south 54 degrees 30 minutes east along and with the Guthrie line 1,804 feet to the northwestern corner of Quail Wood Acres Subdivision, Section "A," as recorded in Map Book 15, page 55; thence south 4 degrees 30 minutes west along and with the western boundary of Quail Wood Acres 1,662.74 feet to a corner in Cat Pond Branch, said corner being the northeastern corner of Fox Forest Subdivision, Section "B," as recorded in Map Book 11, page 19; thence in a northwesterly direction along and with the boundary of said Section "B" north 42 degrees 20 minutes west 733 feet as shown on Burney's Map, to a corner in Cat Pond Branch; thence in a southwesterly direction along and with the boundary of said Section "B," south 55 degrees 40 minutes west 1,040 feet, as shown on Burney's Map, to the northeastern corner of Fox Forest Subdivision, Section "A," as recorded in Map Book 9, page 53; thence in a southwesterly direction along and with the western boundary of said Section "A," south 25 degrees 20 minutes west 705 feet as shown on Burney's Map, to a concrete monument marking Carl Weeks' northwestern corner; thence along and with Weeks' line as shown on Burney's Map south 7 degrees 05 minutes east 859.7 feet to a concrete monument; thence along and with the Weeks' line as shown on Burney's Map north 83 degrees 41 minutes east 322.25 feet to a concrete monument marking the common corner of Weeks and Eula Dennis; thence along and with Eula Dennis' line as shown on Burney's Map south 11 degrees 28 minutes west 381.95 feet; thence along and with Dennis' line as shown on Burney's Map south 17 degrees 17 minutes west 63 feet to the northern right of way of N.C. Highway 24; thence along and with the said northern right of way in an easterly direction approximately 1,185 feet to the northern end of a line running normal to the said northern right of way and passing through Eula Dennis' corner lying in the southern right of way of N.C.

Highway 24; thence in a southern direction along and with said line running normal to said northern right of way 100 feet to Eula Dennis' corner lying in said southern right of way; thence along and with the Eula Dennis Boundary as shown on Burney's Map the following courses and distances; south 3 degrees 41 minutes west 397 feet; south 72 degrees 46 minutes west 250 feet; south 1 degree 26 minutes west 1,389 feet; south 88 degrees 34 minutes east 436 feet; south 8 degrees 10 minutes west 230.55 feet to the northwestern corner of the Hunting Bay, Inc. Subdivision, Section One, as recorded in Map Book 14, page 88, thence with the boundary of the said Section One as recorded the following courses and distances: south 8 degrees 46 minutes west 459.35 feet; south 19 degrees 37 minutes 30 seconds west 1,213.72 feet; south 39 degrees 28 minutes 20 seconds west 409.1 feet to the northern shore line of Bogie Sound; thence along Bogie Sound in a westerly direction, with names of all topographic features being as shown on Edition 15, dated January 28, 1978 of the Intracoastal Waterway Nautical Chart 11541 as published by the U.S. Department of Commerce, the following lines: in a westerly direction along and with the northern shore Line of Bogie Sound approximately 1,300 feet to its intersection with the eastern shore line of Deer Creek at the mouth of Deer Creek, a straight line in a westerly direction across the mouth of Deer Creek and Hunting Island approximately 2,000 feet to the northern shore line of Bogie Sound at Ennett Point; in a westerly direction along and with the northern shore line of Bogie Sound approximately 3,700 feet to the beginning excepting however, from within the corporate limits all or any part of Hunting Island.

Carteret County Register of Deeds Office is the repository for all records herein referenced.

(S.L. 1979, ch. 399, § 3)

Editor's note:

The corporate limits have changed by subsequent annexations of the town. See Table I of the Table of Special Ordinances.

SEC. 4. CREATION, SALARY AND COMPOSITION OF MAYOR AND BOARD OF COMMISSIONERS.

Except as otherwise provided in this Charter all powers of the town shall be vested in a Board of Commissioners of five (5) members and a Mayor nominated and elected from the town at large in the manner hereinafter provided. The term of office of the Mayor and the Board of Commissioners shall be for two (2) years and until their successors are elected and qualified, and the Mayor and Board of Commissioners shall take office at the end of the business session of the first regularly scheduled meeting of the Board of Commissioners following the election. If a vacancy occurs in the office of Mayor or commissioner, it shall be filled for the remainder of the unexpired term by a majority vote of the remaining members of the Board of Commissioners. The Mayor and members of the Board of Commissioners shall be qualified electors of the town. A member of the Board of Commissioners or the Mayor ceasing to possess any of the qualifications specified in this section, or convicted of crime while in office, shall immediately forfeit his office.

Provided however, that Howard C. Cobb is hereby appointed and named as Mayor and D.E. Hill, Loyd C. Johnson and Clyde Fulcher are hereby appointed and named as commissioners to serve as the first Mayor and Board of Commissioners of the Town of Cape

Carteret. At the regular municipal election in 1969, and biennially thereafter, all members of the Board of Commissioners shall be elected at large by the qualified voters of the town.

(S.L. 1969, ch. 283, §§ 1, 2)

Cross-reference:

Staggered terms for Board members, see § 38.01

Editor's note:

G.S. § 160A-63 now provides a more detailed procedure to be followed when filling a vacancy in any elective office of a city, including that of Mayor and of commissioner.

SEC. 5. MEETINGS OF THE BOARD OF COMMISSIONERS.

At noon on the day following a regular municipal election the incumbent Board of Commissioners shall meet and the newly elected members and newly elected Mayor shall assume the duties of their offices at the end of the business session of such meeting. Thereafter the Board of Commissioners shall meet at such times as may be prescribed by ordinance or resolution. Special meetings may be called upon the written request of the Mayor or two (2) members of the Board of Commissioners. All meetings of the Board of Commissioners shall be open to the public, and the rules of the Board of Commissioners shall provide that citizens of the town shall have a reasonable opportunity to be heard at any such meetings in regard to any matter considered thereat.

(S.L. 1969, ch. 283, § 3)

Editor's note:

G.S. § 160A-68 now provides that the organizational meeting of the board is to be held not later than the date and time of the first regular meeting of the board in December after the results of the municipal election have been certified.

G.S. § 160A-71 now requires regular meetings to be held at least once a month.

G.S. § 160A-71(b) now imposes additional requirements for calling special meetings.

SEC. 6. MAYOR AND MAYOR PRO TEM.

At its first meeting following a regular municipal election the Board of Commissioners shall choose one of its members as Mayor Pro Tem. The Mayor shall preside at meetings of the Board of Commissioners and shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him by the general laws of North Carolina; by this Charter and the ordinances of the town. He shall be recognized as the head of the town government for all ceremonial purposes; by the courts for serving civil processes; and by the governor for purposes of military law. In time of public danger or emergency the Mayor shall, if so authorized and directed by vote of the Board of Commissioners, take command of the police, maintain order and enforce the law. In case of the absence or disability of the Mayor, the Mayor Pro Tem shall act as Mayor during the continuance of the absence or disability.

Statutory reference:

Mayor Pro Tempore, disability of Mayor, see G.S. § 160A-70

SEC. 7. BOARD OF COMMISSIONERS' RULES.

The Board of Commissioners shall be the judge of the election and qualifications of its members and the Mayor, and in such cases shall have power to subpoena witnesses and compel the production of all pertinent books, records, and papers; but the decision of the Board of Commissioners in any such case shall be subject to review by the courts. The Board of Commissioners shall determine its own rules and order of business and keep a journal of its proceedings.

Statutory reference:

Council to adopt own rules of procedure, see G.S. § 160A-71(c)

SEC. 8. QUORUM.

A majority of the members elected to the Board of Commissioners shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of the members elected to the Board of Commissioners shall be necessary to adopt any ordinances, resolutions, order or vote; except that a vote to adjourn, or regarding the attendance of absent members, may be adopted by a majority of the members present. No member shall be excused from voting except on matters involving the consideration of his own official conduct or when his financial interests are involved.

Editor's note:

G.S. § 160A-74 now provides that the majority of the actual membership of the legislative body plus the Mayor, but excluding vacant seats, shall constitute a quorum.

G.S. § 160A-75 now provides that an affirmative vote equal to a majority of all the members of the legislative body not excused from voting from the question in issue (including the Mayor's vote in case of an equal division) shall be required to adopt an ordinance.

SEC. 9. INTRODUCTION AND PASSAGE OF ORDINANCE AND RESOLUTIONS.

All ordinances, except ordinances making appropriations and ordinances codifying or rearranging existing ordinances or enacting a code of ordinances, shall be confined to one subject, and the subject, or subjects of all ordinances shall be clearly expressed in the title. Ordinances making appropriations shall be confined to the subject of appropriations. The yeas and nays shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the Board of Commissioners. Except as otherwise prescribed in this Charter or by general law, all ordinances and resolutions passed by the Board of Commissioners shall take effect at the time indicated therein. No measure making or amending a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure.

SEC. 10. AUTHENTICATION AND PUBLICATION OF ORDINANCES AND RESOLUTIONS.

Upon its final passage each ordinance or resolution shall be authenticated by the signature of the Mayor and the Town Clerk and shall be recorded in a book kept for that purpose. Within 10 days after final passage, a notice setting forth in brief the substance of each ordinance shall be published or posted at least once in such manner as the Board of Commissioners may prescribe.

SEC. 11. MUNICIPAL ELECTIONS.

The regular election for the choice of Mayor and members of the Board of Commissioners shall be held on Tuesday following the first Monday in May in the year 1961 and biennially thereafter. The Board of Commissioners may by resolution order a special election; fix the time for holding the same; and provide all means for holding such special election. (S.L. 1961, ch. 375)

Editor's note:

G.S. Ch. 163 now requires municipal elections to be held in November of odd-numbered years. Charter provisions to the contrary are superseded.

SEC. 12. REGULATIONS OF ELECTIONS.

All elections shall be conducted in accordance with the general state laws relating to municipal elections, except as otherwise provided herein.

SEC. 13. NOMINATIONS.

Any qualified elector of the Town of Cape Carteret may file as a candidate for Mayor or commissioner by formal notice of candidacy in substantially the following form:

“I, _____, hereby give notice that I am a candidate for election to the office of_____, to be voted on at the election to be held on_____ and I hereby request that my name be printed on the official ballot for such office, I also certify that I am a resident and qualified elector of the Town of Cape Carteret, residing at_____in said town.

Candidate

Date

Witness:

_____”

The notice of candidacy prescribed above must be filed with the Town Clerk not earlier than 60 days nor later than 10 days before the date of election. The Town Clerk shall preserve all such notices until expiration of the term of the office for which the candidate filed. Any candidate may withdraw his notice of candidacy not later than the last day for filing by submitting written notice of withdrawal with the Town Clerk.

Editor's note:

G.S. Ch. 163 now prescribes the form for notice of candidacy and with whom it must be filed, superseding municipal charters.

SEC. 14. ELECTION OF MAYOR AND BOARD OF COMMISSIONERS.

All members of the Board of Commissioners shall be elected at large. Every voter shall be entitled to vote for one (1) candidate for Mayor and for five (5) candidates for the Board of Commissioners. The five (5) candidates who receive the largest number of votes for commissioner shall be declared elected. The candidate who receives the largest number of votes for Mayor shall be declared elected.

(S.L. 1969, ch. 283, § 4)

SEC. 15. APPOINTMENT OF OFFICERS AND EMPLOYEES.

The Board of Commissioners may appoint a Town Clerk, a Treasurer, a Tax Collector, an Accountant, a Town Attorney, a Chief of Police, a Fire Chief, and such other officers and employees as may be necessary, none of whom need be a resident of the town at the time of appointment; provided, that the Board of Commissioners may appoint one (1) person to fill any two (2) or more such positions. Such employees or officers shall serve at the pleasure of the Board of Commissioners, and shall perform such duties as may be prescribed by the Board of Commissioners. The Board of Commissioners shall fix all salaries, prescribe bonds and require such oaths as they may deem necessary.

SEC. 16. CUSTODY OF TOWN MONEY.

All moneys received by the town for or in connection with the business of the town government shall be paid promptly into the town depository. Such institution shall be designated by the Board of Commissioners in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance. All interest on moneys belonging to the town shall accrue to the benefit of the town government. All moneys belonging to the town government shall be disbursed only on vouchers signed by the Mayor and countersigned by the Treasurer or other official designated by the Board of Commissioners.

Editor's note:

G.S. § 159-28(b) through (e) now prescribes more detailed procedures for municipal disbursement, superseding municipal charters.

SEC. 17. ISSUANCE OF BONDS.

The town may issue bonds for the purpose and in the manner prescribed by the general laws of North Carolina for the issuance of bonds by municipalities.

SEC. 18. PURCHASE PROCEDURE.

Before making any purchase for supplies, materials, equipment, opportunity shall be given for competition, under such rules and regulations, and with such exceptions, as the Board of Commissioners may prescribe by ordinance. All expenditures for supplies, materials, equipment, involving more than \$2,000.00 shall be made on a written contract, and such contract shall be awarded to the lowest responsible bidder after such public notice and competition as is required by law in North Carolina.

Cross-reference:

Competitive bidding procedures, see § 38.02

SEC. 19. CONTRACTS FOR TOWN IMPROVEMENTS.

Any town improvement costing more than \$3,500.00 shall be executed by contract except where such improvement is authorized by the Board of Commissioners to be executed directly by a town department in conformity with detailed plans, specifications and estimates. All such contracts for more than \$3,500.00 shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed by law in North Carolina; provided the Board of Commissioners shall have the power to reject all bids and advertise again. Alterations in any contract may be made when authorized by the Board of Commissioners.

Editor's note:

The monetary limits established in sections 18 and 19 are lower than the limits contained in the state purchasing statute, G.S. § 143-131 (\$5,000.00 or more, but less than the limits prescribed in G.S. § 143-129).

SEC. 20. INDEPENDENT AUDIT.

As soon as practicable after the close of each fiscal year, an independent audit shall be made of all accounts of the town government by qualified public accountants, selected by the Board of Commissioners, who have no personal interest directly or indirectly in the financial affairs of the town government or of any of its officers. The results of this audit shall be available to any interested citizen and may be published if so ordered by the Board of Commissioners.

Editor's note:

G.S. § 159-34 now prescribes more detailed procedures for municipal audits.

SEC. 21 PUBLICITY OF RECORDS.

All records and accounts of the town shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under reasonable regulations established by the Board of Commissioners.

Statutory reference:

Public records, G.S. Ch. 132

SEC. 22. PERSONAL INTEREST.

Neither the Mayor nor any member of the Board of Commissioners nor any officer or employee of the town shall have a financial interest, direct or indirect, in any contract with the town, or be financially interested, directly or indirectly, in the sale to the town of any land, materials, supplies or services, except on behalf of the town as an officer or employee. Any wilful violation of this section shall constitute malfeasance in office; and any officer or employee of the town found guilty thereof shall thereby forfeit his office or position. Any violation of this section, with the knowledge express or implied of the person or corporation contracting with the town shall render the contract voidable by the Board of Commissioners.

SEC. 23. OATH OF OFFICE.

Every officer of the town shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the Town Clerk.

“I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of North Carolina; that I will, in all respects, observe the provisions of the Charter and ordinances of the Town of Cape Carteret and will faithfully discharge the duties of the office of _____.”

Statutory reference:

Oath of office required, G.S. § 160A-68

SEC. 24. SAVING CLAUSE.

If any part of this Charter shall be declared invalid by a court of competent jurisdiction, such judgment shall not invalidate the remainder of the Charter. The provisions of this Charter shall supersede all laws and ordinances not consistent herewith, insofar as the Town of Cape Carteret is affected thereby.