

## CHAPTER 30: FORM OF GOVERNMENT

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#### *GENERAL PROVISIONS*

### § 30.01 GOVERNING BODY.

The governing body of the town shall consist of a Mayor and Board of Commissioners of 5 members, elected according to the uniform municipal election laws of North Carolina. (1978 Code, § 2-1001) (Am. Ord. passed 11-3-1986) ***Cross-reference:***

*Council-Manager form of government adopted pursuant G.S. §§ 160A-101 and 160A-102, see the Town Charter, Section 1-13* ***Statutory reference:***

*Board to organize town government, see G.S. § 160A-146;*

*Uniform Municipal Election Law of 1971, as amended, see G.S. §§ 163-279 et seq.*

## **§ 30.02 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.  
(1978 Code, § 2-1002)

## **§ 30.03 MAYOR; DUTIES.**

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

- (A) Keep himself informed as to the town's business;
- (B) Preside over the meetings of the Board of Commissioners;
- (C) Sign all contracts, ordinances, resolutions, franchises, and all other documents  
as  
authorized by the Board;
- (D) Appoint all committees and outline their duties under the general direction of  
the  
Board;
- (E) Make recommendations to the Board concerning the affairs of the town as he  
deems  
necessary;
- (F) Represent the town at ceremonies and other official occasions;
- (G) Perform other duties as authorized by the General Statutes, the Town Charter  
and this code. (1978 Code, § 2-1003) ***Statutory reference:***  
*Duties of the Mayor, see G.S. § 160A-69*

**§ 30.04 SELECTION AND DUTIES OF THE MAYOR PRO TEM.**

At the first meeting after their election, the Board of Commissioners shall select 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. (1978 Code, § 2-1004)

*Statutory reference:*

*Mayor pro tem, see G.S. § 160A-70*

**§ 30.05 TOWN MANAGER.**

(A) *Appointment.* The Board of Commissioners shall appoint a Town Manager to serve at its pleasure. The Town Manager shall be appointed solely on the basis of his or her executive and administrative qualifications. The Town Manager need not be a resident of the town or state at the time of appointment. The office of Town Manager may be held concurrently with other appointive (but not elective) offices pursuant to Article VI, Section 9, of the state constitution.

(G.S. § 160A-147)

(B) *Powers and duties.* The Town Manager shall be the chief administrator of the town. The Town Manager shall be responsible to the Board of Commissioners for administering all municipal affairs placed in his or her charge by them and shall:

- (1) Appoint and suspend or remove all town officers and employees not elected by the people, and whose appointment or removal is not otherwise provided for by law, except the Town Attorney, in accordance with such general personnel rules, regulations, policies, or ordinances as the Board of Commissioners may adopt.
- (2) Direct and supervise the administration of all departments, offices, and agencies of the town, subject to the general direction and control of the Board of Commissioners except as otherwise provided by law.
- (3) Attend all meetings of the Board of Commissioners and recommend any measures that he or she deems expedient.
- (4) See that all laws of the state, the town charter, and the ordinances, resolutions, and regulations of the Board of Commissioners are faithfully executed within the town.
- (5) Prepare and submit the annual budget and capital program to the Board of Commissioners.
- (6) Submit annually to the Board of Commissioners and make available to the public a complete report on the finances and administrative activities of the town as of the end of the fiscal year.

(7) Make any other reports that the Board of Commissioners may require concerning the operations of town departments, offices, and agencies subject to his direction and control.

(8) Perform any other duties that may be required or authorized by the Board of Commissioners. (G.S. § 160A-148)

(C) *Acting town manager.* By letter filed with the Town Clerk, the Town Manager may designate, subject to the approval of the Board of Commissioners, a qualified person to exercise the powers and perform the duties of manager during temporary absence or disability. During this absence or disability, the Board of Commissioners may revoke that designation at any time and appoint another to serve until the Town Manager returns or his or her disability ceases.  
(G.S. § 160A-149)

(D) *Interim town manager.* When the position of Town Manager is vacant, the Board of Commissioners shall designate a qualified person to exercise the powers and perform the duties of manager until the vacancy is filled.  
(G.S. § 160A-150)

(E) *Mayor and Commissioners ineligible to serve or act as manager.* Neither the Mayor nor any member of the Board of Commissioners shall be eligible for appointment as Town Manager or Acting or Interim Manager.  
(G.S. § 160A-151)

**§ 30.06 COMMITTEES APPOINTED BY MAYOR; REPORTS; COMPENSATION.**

Committees shall, unless otherwise ordered, be appointed by the Mayor. All committees shall make reports to the Board upon request, and committee members shall receive such compensation for extra and special service as the Board may designate.  
(1978 Code, § 2-1006)

**§ 30.07 RESIGNATIONS OF MEMBERS.**

Resignation of any member of the Board shall be in writing, and such resignation shall lie on the table until the next regular meeting unless accepted by the unanimous consent of all members of the Board.  
(1978 Code, § 2-1007)

**§ 30.08 COMPENSATION.**

The compensation of Board members shall be as provided in the annual budget ordinance, and as the same may be amended from time to time. (1978 Code, § 2-1008) *Statutory reference: Compensation of Mayor and Board members, see G.S. § 160A-64*

## § 30.09 CODE OF ETHICS

### PREAMBLE

WHEREAS, the Constitution of North Carolina, Article 1, Section 35, reminds us that a "frequent recurrence to fundamental principles is absolutely necessary to preserve the blessing of liberty" and

WHEREAS, a spirit of honesty and forthrightness is reflected in North Carolina's state motto, *Esse quam videri*, "To be rather than to seem," and

WHEREAS, Section 160A-86 of the North Carolina General Statutes requires local governing councils to adopt a code of ethics, and

WHEREAS, as public officials we are charged with upholding the trust of the citizens of the Town of Jonesville, and with obeying the law,

NOW THEREFORE, in recognition of our blessing and obligations as citizens of the State of North Carolina and as public official representing the citizens of the Town of Jonesville, and acting pursuant to the requirement of Section 160A-86 of the North Carolina General Statutes we, the Jonesville Town Council do hereby adopt the following General Principles and Code of Ethics to guide the Town Council in its lawful decision making.

### GENERAL PRINCIPLES UNDERLYING THE CODE OF ETHICS

- The stability and proper operation of democratic representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.
- Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.
- Council members must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interest and needs of those they represent.
- Council members must always remain aware that, at various times, they play different roles:
- As advocates, who strive to advance the legitimate needs of their citizens
- As legislators, who balance the public interest and private rights in considering and enacting ordinances, orders, and resolutions
- As decision-makers, who arrive at fair and impartial quasi-judicial and administrative determinations.
- Council members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.
- Council members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each official must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.

## CODE OF ETHICS

The purpose of this Code of Ethics is to establish guidelines for an ethical standard of conduct for the Jonesville Town Council, as well as any council or commission that reports to the Jonesville Town Council, and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a council member's best judgment.

### Section 1.

Council members should obey all laws applicable to their official actions as members of the Town Council. Council members should be guided by the spirit, as well as the letter, of the law in whatever they do.

At the same time, council members should feel free to assert policy positions and opinions without fear of reprisal from fellow council members or citizens. To declare that a council member is behaving unethically because one disagrees with that council member on a question of policy (and not because of the council member's behavior) is unfair, dishonest, irresponsible, and itself unethical.

### Section 2.

Council members should act with integrity and independence from improper influences as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- Adhering firmly to a code of sound values;
- Behaving consistently and with respect toward everyone with whom they interact
- Exhibiting trustworthiness;
- Living as if they are on duty as elected officials regardless of where they are or what they are doing;
- Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in reasonable forthright, consistent manner;
- Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others;
- Disclosing contacts and information about issues that they received outside of public meetings and refraining from seeing or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves;
- Treating other council members and the public with respect and honoring the opinions of others even when the council members disagree with those opinions;
- Not reaching conclusions on issues until all sides have been heard;
- Showing respect for their offices and not behaving in ways that reflect poorly on those offices;
- Recognizing that they are part of a larger group and acting accordingly;
- Recognizing that individual council members are not generally allowed to act on behalf of the council but may only do so if the council specifically authorizes it, and that the council must take official action as a body; and
- Avoiding conflicts of interest.

### Section 3.a.

Council members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach. Although opinions may vary about what behavior is inappropriate, this council will consider impropriety in terms of whether a reasonable person, who is aware of all of the relevant facts and circumstances surrounding the council member's action, would conclude that the action was inappropriate.

### Section 3.b.

If a council member believes that his or her actions, while legal and ethical, may be misunderstood, the member should seek the advice of the town's attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it.

### Section 4.

Council members should faithfully perform the duties of their offices. They should act as especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

Council members should faithfully attend and prepare for meetings. They should carefully analyze all credible information properly submitted to them, mindful of the need not to engage in communications outside the meeting in quasi-judicial matters.

They should demand full accountability from those over whom the council has authority.

Council members should be willing to bear their fair share of the council's workload. To the extent appropriate, they should be willing to put the council's interests ahead of their own.

### Section 5.

Council members should conduct the affairs of the council in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so in an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business. They should also remember that local government records belong to the public and not to council members or their employees.

In order to ensure strict compliance with the laws concerning openness, council members should make clear that an environment of transparency and candor is to be maintained at all time in the governmental unit. They should prohibit unjustified delay in fulfilling public records request. They should take deliberate steps to make certain that any closed sessions held by the council are lawfully conducted and that such sessions do not stray from the purposes for which they are called.

### Censure Procedures.

If a majority of the council has reason to believe that one of its members has violated a provision of this Code of Ethics, it may open an investigation into the matter to determine whether probable cause exists to initiate censure proceedings against the member. All information compiled, including the grounds for any finding of probable cause, shall be shared with the member when it is received. All information pertaining to the case shall be open to public inspection and copying

pursuant to the North Carolina public records statutes. If, upon investigation, the council concludes that a violation of a criminal law may have occurred, subject matter shall be reviewed by the police chief and town attorney and, if deemed necessary, the matter will be referred to the local district attorney.

Should the council determine that it wishes to proceed further with censure proceedings, it shall call for a hearing, to be held at a regular meeting or at a special meeting convened for that purpose. Notice of the hearing stating its time, place, and purpose shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the jurisdiction. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Alternatively, the hearing shall be advertised on the jurisdiction's website for the same period of time, up to and including the date of the hearing. The notice shall state that a detailed list of the allegations against the member is available for public inspection and copying in the office of the clerk or secretary to the council.

The hearing shall be convened at the time and place specified. The hearing and any deliberations shall be conducted in open session in accordance with the North Carolina open meetings statutes.

The accused council member shall have the right to have counsel present, to present and cross examine expert and other witnesses, and to offer evidence, including evidence of the bias of any other council member or the presiding officer. An audio or video and audiotape of the proceedings shall be prepared. Any and all votes during the hearing shall be taken by the ayes and noes and recorded in the council's minutes. Once the hearing is concluded, it shall be closed by a vote of the council. The presiding officer shall next entertain a motion to adopt a nonbonding resolution censuring the member based on specified violations of the code of ethics. Any motion made must be an affirmative one in favor of adoption a nonbonding resolution of censure. If the motion or resolution does not state particular grounds for censure under the code of ethics then the presiding officer shall rule it out of order.

If a motion to adopt a nonbonding resolution of censure stating particular grounds under the code of ethics has been made, the council shall debate the motion. The accused member shall be allowed to participate in the debate but shall not vote on the motion to adopt the resolution.

At the conclusion of the debate, the council shall vote on the resolution. If the motion to adopt the nonbonding resolution of censure is approved by a majority vote of those present and voting, a quorum being present, the motion passes and the nonbonding resolution of censure is adopted.

The text of the nonbonding resolution of censure shall be made a part of the minutes of the council. Any recording of the council's proceedings shall be approved by the council as a permanent part of the minutes. The proceeding shall then be considered concluded, the council having done all it legally can with respect to the matter in question.

Adoption of a non-binding resolution of censure is the only way to take action against a member who does not comply. There is no legal recourse unless the member breaks the law during their unethical behavior. Council may not determine an actual punishment for misbehavior.

### **Conflicts of interest.**

(a) Governing Board. - A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the



landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

(b) Appointed Boards. - Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

(c) Administrative Staff. - No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

## ***MEETINGS***

### **§ 30.20 REGULAR MEETINGS; TIME AND PLACE.**

The regular meetings of the Board shall be held on the second Monday of each month at 7:00 p.m. at the Town Hall unless otherwise designated by the Board. Every member of the Board shall attend all meetings of the Board, unless excused. (1978 Code, § 2-1021) *Statutory reference:*

*Quorum, see G . S . § 160A-74      Voting, see G.S. § 160A-75*

### **§ 30.21 SPECIAL MEETINGS.**

Special meetings of the Board may be held according to the procedures set out in the applicable General Statutes. (1978 Code, § 2-1022) *Statutory reference:*

*Special meetings, see G. S. § 160A-71*

### **§ 30.22 ADJOURNED MEETINGS.**

Any meeting of the Board may be continued or adjourned from day to day, or for more than 1 day, but no adjournment shall be for a longer period than until the next regular meeting thereafter. (1978 Code, § 2-1023)

**§ 30.23 ORDER OF BUSINESS.**

(A) Unless the Board agrees in advance otherwise, the business of the Board shall be taken up for consideration and disposition at regular meetings in the following order:

- (1) Call to order;
- (2) Reading and disposition of minutes of the previous meeting;
- (3) Reports of boards or standing committees;
- (4) Reports of special committees;
- (5) Unfinished business;
- (6) New business;
- (7) Announcements;
- (8) Adjournment.

(B) If the Board directs any matter to be the special business of a future meeting, the matter shall have precedence over all other business at that meeting. (1978 Code, § 2-1024)

**§ 30.24 RULES OF PROCEDURE.**

(A) *Agenda.* All reports, communications, ordinances, resolutions, when possible, contract documents or other matters to be submitted to the Board should be delivered or submitted to the Clerk at least 4 days prior to its meeting. The Clerk shall then arrange a list of these matters according to the order of business and furnish each member of the Board and the Town Attorney with a copy prior to the Board meeting and as far in advance of the meeting as time for preparation will permit.

(B) *Rules of debate and decorum,*

- (1) *Manner of speaking.* Every member desiring to speak shall address the chair and upon recognition by the Mayor shall confine himself or herself to the question under debate, avoiding all personalities and indecorous language.
  - (2) *Interrupting the speaker.* A member, once recognized, shall not be interrupted when speaking, unless it is to call him to order or as herein otherwise provided. If a member, while speaking is called to order, he shall cease speaking until the question of order is determined and, if in order, he shall be permitted to proceed.
  - (3) *Closing debate.* The member moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.
  - (4) *Motion to reconsider.* A motion to reconsider a vote may be made only at the same or any adjourned meeting to that at which the vote is taken, or upon notice by one voting with the majority that a motion to reconsider will be made at the next regular meeting. The motion must be made by a member of the Board voting on the prevailing side, but may be seconded by any other member and may be made at any time and have precedence over all other motions or while a member has the floor.
  - (5) *Request to have statement abstracted.* A member may request from the Mayor the privilege of having an abstract of his statement on any subject under consideration by the Board entered in the minutes.
  - (6) *Request to record synopsis of discussion in the minutes.* The Clerk may be directed by the Mayor, with consent of the Board, to enter in the minutes a synopsis of the discussion on any question coming before the Board.
- (C) *Addressing the Board.* Any person desiring to address the Board shall first secure the permission of the Mayor. Any interested parties or their authorized representatives may address the Board on matters listed on the agenda of the Board. After a motion is before the Board, no person shall address the Board without first securing the permission of the Board to do so.
- (D) *Manner of addressing Board; time limit.* Every person addressing the Board shall attempt to limit his remarks to 10 minutes. All remarks shall be addressed to the Board as a body and not to any member thereof. No person, other than Board members and the person having the floor, shall be permitted to enter into any discussion either directly or through a member of the Board. No question shall be asked a member except through the Mayor.
- (E) *Voting, explanation of vote.* All elections by the Board shall be made by individual ballot if required by any 2 members present. A member may be permitted to explain

his vote and may have his reason for voting for or against any measure recorded in the minutes.

- (F) *Questions of order.* All questions of order shall be decided by the Mayor without debate, subject to an appeal to the Board.
- (G) *Robert's Rules of Order.* When a point of procedure shall arise not covered by this chapter, the latest revised edition of *Robert's Rules of Order* shall determine the question of procedure.  
(1978 Code, § 2-1025)

### **§ 30.25 MEETINGS OPEN TO PUBLIC.**

Except as provided in the Open Meetings Law of the state, all meetings of the Board shall be open to the public. (1978 Code, § 2-1026) *Statutory reference:*  
*Open meetings law, see G.S. §§ 143-318.9 et seq.*

## ***ORDINANCES***

### **§ 30.40 PROCEDURE, FORM; PUBLICATION.**

Every ordinance amending or repealing any ordinance and every new ordinance shall be proposed in writing and shall be approved as to form by the Town Attorney. Ordinances shall have ordinance and section captions.  
(1978 Code, § 2-1041)

### **§ 30.41 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 statutory time requirements.  
(1978 Code, § 2-1042)

### **§ 30.42 OFFICIAL COPY.**

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. (1978 Code, § 2-1043) *Statutory reference:*

*Pleading and proving municipal ordinances, see G.S. § 160A-79*

### **§ 30.43 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. (1978 Code, § 24044)

*Statutory reference:*

*For similar requirements on the ordinance book, see G. S. § 160A-78*

### **§ 30.44 ORDINANCES ADDING TO CODE.**

Any ordinance which is proposed to add to the code a new chapter, subchapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter, subchapter or section. (1978 Code, § 2-1045)

### **§ 30.45 IMPROPER AMENDING VOID.**

It shall be unlawful for members of the Board to annul, abridge, modify or in any way change any ordinance of the Board except at a regular or special meeting of the Board. (1978 Code, § 2-1046) Penalty, see § 10.99