

## PART I - CHARTER AND RELATED LAWS

### Subpart A - CHARTER<sup>1</sup>

Footnotes:

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**Editor's note—** [Ord. of 6-27-2016\(1\)](#), repealed the Charter, §§ 1—51, in its entirety; and enacted a new Charter, to read as set out herein. The former Charter was derived from Chapter 1281 of the Session Laws 1957, adopted June 10, 1957; Session Laws 1959, ch. 934, § 1; Session Laws 1961, ch. 1111, §§ 1—17; Session Laws 1963, ch. 1162, § 1; Session Laws 1965, ch. 693, §§ 1—3; Session Laws 1969, ch. 213, §§ 1—5; Session Laws 1969, ch. 324, §§ 1—4; Session Laws 1971, ch. 785, §§ 1—3; Session Laws 1981, ch. 170, § 1; Session Laws 1981, ch. 1168, §§ 1—4; Session Laws 1983, ch. 266, § 1; Session Laws 1984, ch. 64, § 3; Session Laws 1985, ch. 64, §§ 1, 4; Ord. No. 34, § 1, 5-9-89; Ord. No. 42, § 1, 5-23-89; Session Laws 1993, ch. 629, § 1; Session Laws 1993, ch. 630, § 1; Session Laws 1995, ch. 118, § 1; Session Laws 1995, ch. 231, § 1; Res. of 2-22-00(1), § 1; Res. of 2-22-00(2), § 1; Res. No. 28, § 1, 5-3-01.

### ARTICLE I. - INCORPORATION, GENERAL POWERS, AND BOUNDARIES

#### Section 1.1. - Incorporation.

The City of New Bern and the inhabitants thereof shall continue to be a municipal body politic and corporate under the name of the "City of New Bern", hereinafter at times referred to as the "City".

( [Ord. of 6-27-2016\(1\)](#) )

#### Section 1.2. - Powers.

The City of New Bern shall have and may exercise all of the powers, duties, rights, privileges and immunities which are now or hereafter may be conferred, either expressly or by implication, upon the City of New Bern specifically or upon municipal corporations generally by this Charter, by the state constitution, or by general or local law.

( [Ord. of 6-27-2016\(1\)](#) )

#### Section 1.3. - Corporate Limits.

The corporate limits of the City of New Bern shall be those existing at the time of ratification of this Charter, as the same are now or hereafter may be constituted pursuant to law. An official map or description of the city, showing the current city boundaries, shall be maintained permanently in the office of the city clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map or description of the city shall be made.

( [Ord. of 6-27-2016\(1\)](#) )

### ARTICLE II. - MAYOR AND BOARD OF ALDERMEN

#### Section 2.1. - Governing Body.

The mayor and board of aldermen, elected and constituted as herein set forth, shall be the governing body of the City of New Bern. On behalf of the City, and in conformity with applicable laws, the mayor and board of aldermen may provide for the exercise of all municipal powers, and shall be charged with the general government of the City, except that the city manager shall have the authority specified herein.

( [Ord. of 6-27-2016\(1\)](#) )

**Section 2.2. - Mayor; term of office; duties; right to vote.**

The mayor shall be elected by and from the qualified voters of the city for a term of four (4) years, in the manner provided by Article III of this Charter. The mayor shall be the official head of the City government for all ceremonial purposes, shall preside at all meetings of the board of aldermen, and shall have the powers and duties of mayor as prescribed by this Charter and the General Statutes. The mayor shall have the right to vote on matters before the board of aldermen, and shall do so as if the mayor were a member of the board of aldermen.

( [Ord. of 6-27-2016\(1\)](#) )

**Section 2.3. - Board of Aldermen; terms of office.**

The board of aldermen shall be composed of six (6) members each of whom shall be elected for terms of four (4) years, in the manner provided by Article III of this Charter, and shall serve until their successors are elected and qualified.

( [Ord. of 6-27-2016\(1\)](#) )

**Section 2.4. - Mayor pro tempore.**

At its first meeting in the month of December, the board of aldermen shall choose one of its members as mayor pro tempore to serve for a term of one year. The mayor pro tempore shall perform the duties of the mayor during his or her absence or disability as prescribed by this Charter and the General Statutes.

( [Ord. of 6-27-2016\(1\)](#) )

**Section 2.5. - Board of aldermen rules of procedure.**

The board of aldermen shall determine its own rules of procedure for all meetings of the board of aldermen, not inconsistent with this Charter, or general law.

( [Ord. of 6-27-2016\(1\)](#) )

**Section 2.6. - Meetings of the board of aldermen.**

In accordance with applicable state laws, the board of aldermen shall establish a suitable time and place for its regular meetings. Special meetings, organizational meetings, and emergency meetings shall be held according to applicable provisions of the General Statutes.

( [Ord. of 6-27-2016\(1\)](#) )

**Section 2.7. - Introduction and passage of ordinances and resolutions.**

Ordinances and resolutions shall be introduced in the board of aldermen only in written or printed form. 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 aldermen. Notwithstanding the provisions of G.S. 160A-75 an ordinance or any action having the effect of an ordinance, may be finally adopted on the date on which it is introduced by the affirmative vote of a majority of the members elected to the board of aldermen. All ordinances shall also be recorded in the code of ordinances or other records as prescribed by the board. The enacting clause of all ordinances shall be: "Be it ordained by the Board of Aldermen of the City of New Bern." All ordinances heretofore adopted by the City of New Bern shall remain in full force and effect unless and until any shall be repealed.

( [Ord. of 6-27-2016\(1\)](#) )

### ARTICLE III. - ELECTIONS

#### Section 3.1. - Method of election.

Regular municipal elections shall be held in the City every four (4) years in odd-numbered years, and shall be conducted in accordance with state law governing municipal elections. The mayor and members of the board of aldermen shall be elected according to the nonpartisan election and runoff method.

( [Ord. of 6-27-2016\(1\)](#) )

#### Section 3.2. - Election of the mayor.

A mayor shall be elected for a term of four (4) years by and from the qualified voters of the City voting at large.

( [Ord. of 6-27-2016\(1\)](#) )

#### Section 3.3. - Election of aldermen.

The qualified voters of each ward shall elect one alderman who shall be a resident of the ward for which he or she is elected.

( [Ord. of 6-27-2016\(1\)](#) )

#### Section 3.4. - City divided into wards.

The board of aldermen shall divide the City into six (6) wards. Once established, the boundaries of the wards may be changed as provided by law. The current ward boundaries, at all times, shall be shown on a map to be retained permanently in the office of the city clerk and to be designated, as the case may be, "Map of New Bern Ward Boundaries." Alterations in these boundaries shall be indicated by appropriate entries upon or additions to such map. Such entries or additions shall be made by or under the direction of the city manager. The board of aldermen may provide for the redrawing of any such map. A redrawn map shall supersede for all purposes the earlier map or maps which it is designated to replace.

( [Ord. of 6-27-2016\(1\)](#) )

Section 3.5. - Assignment to wards of area annexed.

In the event the limits of the City of New Bern shall hereafter be extended to include additional property, the board of aldermen shall have the power, authority and duty to assign any such annexed territory to any ward, or to apportion such annexed territory among the wards, by ordinance duly adopted. Thereafter such annexed territory shall be and become a part of the ward or wards to which the same shall be assigned as herein provided.

( [Ord. of 6-27-2016\(1\)](#) )

**ARTICLE IV. - ORGANIZATION AND ADMINISTRATION**

**Section 4.1. - Form of government.**

The City shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

( [Ord. of 6-27-2016\(1\)](#) )

**Section 4.2. - City manager; appointment; duties.**

The board of aldermen shall appoint a city manager to serve as provided by state law. The city manager shall be the administrative head of the city government, and shall have such powers and duties as provided by law, and any additional powers and duties specifically delegated by the board of aldermen, so far as authorized by general law. The city manager shall serve at the board of aldermen's pleasure, and shall reside in the City during his tenure.

( [Ord. of 6-27-2016\(1\)](#) )

**Section 4.3. - City clerk; deputy clerk.**

The city manager shall appoint a city clerk to keep a journal of the proceedings of the board of aldermen, to maintain in a safe place all records and documents pertaining to the affairs of the City, and to perform such other duties as may be required by law or as the city manager may direct. The city manager may also appoint a deputy clerk to exercise and perform any of the powers and duties of the city clerk.

( [Ord. of 6-27-2016\(1\)](#) )

**Section 4.4. - City attorney.**

The board of aldermen shall appoint a city attorney to serve at its pleasure. The city attorney shall be licensed to practice law in North Carolina. He or she shall be the chief legal advisor of and attorney for the City and all departments and officers thereof in matters relating to their official powers and duties. It shall be his or her duty, either personally or by such assistants as may be designated, to perform all services incident to the department of law, and perform other duties required by law or as the board of aldermen may direct.

( [Ord. of 6-27-2016\(1\)](#) )

**Section 4.5. - Finance director.**

The board of aldermen shall appoint a city finance director to serve at its pleasure who shall plan, organize, and direct the overall financial management functions of the City, to include general accounting, tax administration, payroll, accounts receivable and payable, utility billing, and perform such other duties as may be required by law or as the board may direct.

( [Ord. of 6-27-2016\(1\)](#) )

#### ARTICLE V. - POLICE CIVIL SERVICE BOARD

##### Section 5.1. - Members; term of office.

The police civil service board of the City of New Bern, hereinafter referred to as the "board," shall consist of five (5) members. All appointments shall be for a two-year term. Terms shall begin on the first day of July and expire on the last day of June. The present members of the board shall continue to serve until their current terms expire to maintain staggered terms such that two (2) terms shall expire on even-numbered years, and three (3) terms shall expire on odd-numbered years.

( [Ord. of 6-27-2016\(1\)](#) )

##### Section 5.2. - Appointment of members; vacancies; reappointments.

All members of the board shall be appointed by the board of aldermen based upon relevant professional experience. Vacancies on the board shall be filled by appointment in the same manner, and any member appointed to fill a vacancy shall serve the remainder of the unexpired term. No member of the board, after having served a full term shall be eligible for reappointment to the next succeeding term.

( [Ord. of 6-27-2016\(1\)](#) )

##### Section 5.3. - Qualifications; removal from office; quorum.

Any person, other than a member of the board of aldermen, an elective officer, a member or employee of the police department, a person who has served as a volunteer in the police department within the previous thirty-six (36) months, or an employee of the City, who is a qualified voter in the municipal election in the city, shall be eligible for membership on the board. Each member of the board shall take an oath (or affirmation) for the faithful discharge of the duties of the office.

The members of the board shall be subject to removal from office by a two-thirds vote of the board of aldermen, with or without cause.

A majority of the board shall constitute a quorum.

( [Ord. of 6-27-2016\(1\)](#) )

##### Section 5.4. - Election of chairman.

The board shall elect from its membership a chairman who shall preside at all meetings of the board.

The city clerk shall act as secretary to the civil service board, and shall be custodian of all papers and records pertaining to the business of said board. The clerk shall keep the minutes of the board's meetings, and shall perform such other duties as the board may require.

( [Ord. of 6-27-2016\(1\)](#) )

## Section 5.5. - Police chief.

Promotions and demotions of members of the police department shall be within the discretion of the chief of police.

Each new officer of the police department shall serve in a probationary status for a period of twelve (12) months, during which said period the officer may be dismissed by the chief of police, with or without cause. The officer so dismissed shall have no opportunity for a hearing before the civil service board, or otherwise, on the subject of his dismissal.

The chief of police may suspend any member of the police department for violation of the rules and regulations of the police department for a period of time not to exceed thirty (30) days at any one time, said suspension to be without pay. Such suspension by the chief of police shall not be subject to review by the civil service board, but may be appealed to the city manager consistent with the provisions of the City's personnel ordinance; provided, however, that in the event the officer is subjected to another suspension within ninety (90) days, said officer shall have the right to appeal such additional suspension to the civil service board, and any hearing conducted by the civil service board pursuant to such appeal shall be covered by the rules hereinbelow set forth.

In the event the chief of police shall determine that a member of the police department should be discharged or subjected to disciplinary action not within the power of the chief of police under the above provisions of this section, the chief shall reduce his charges against the said member of the police department to writing, including his recommendation relative to discharge, fine, or suspension without pay, and shall file a copy of the same with the clerk to the civil service board and deliver a copy to the said member of the police department personally or by certified mail, return receipt requested. Upon delivery of said written charges and recommendations to the member of the police department, if the chief's recommendation is that the member be discharged or be suspended, the chief of police shall suspend such member from duty forthwith. If the charged officer shall not file a request for hearing by the civil service board with the clerk to said board within five (5) days after the delivery of the charges and recommendations to him, the recommendation of the chief shall thereupon become effective. In the event said charged officer requests a hearing within said specified period of time, then and in that event, the hearing by the board shall be conducted as soon as is reasonably possible, and in no event later than thirty (30) days after the written charges have been filed with the clerk to said board, unless the suspended member of the police department shall, in writing, file with said clerk a request for delay beyond said period of time, stating the reason therefore. In the event of such request, the board shall grant a reasonable postponement if, in its opinion, it is merited by the request, keeping in mind the welfare of the individual and the police department.

If a charged member of the police department, who has requested such hearing, shall withdraw his request, the recommendation of the chief shall become effective immediately, and no hearing shall be conducted by the civil service board.

The provisions of this section shall not apply to the chief of police. The city manager shall be responsible for the hiring, firing, discipline and termination of the police chief.

( [Ord. of 6-27-2016\(1\)](#) )

## Section 5.6. - Powers and duties.

The civil service board shall have the power to secure by subpoena both the attendance and testimony of witnesses and the production of any documents or papers of any kind relative to such investigation, at such hearing. Such subpoenas may be directed to any law enforcement officer within the State of North Carolina for service.

The civil service board may make such rules and regulations, from time to time, with respect to the manner in which the hearing shall be conducted as shall be desired by the board. Such hearings shall be closed to spectators. Witnesses who are to appear before the board may be sequestered. Testimony offered before the board shall be recorded by mechanical process or by court reporter. The ordinary rules

of evidence shall not apply, but the hearing shall be conducted with decorum. The decision of the civil service board shall be final.

In the event the charged police officer is found guilty of violating the rules and regulations of the police department, the civil service board may discharge, fine, or suspend such officer without pay for a period not to exceed ninety (90) days. In addition, the civil service board may attach such conditions to such officer's reinstatement to duty as it deems advisable. Should the civil service board discharge such officer, the date of discharge shall be the effective date of the suspension from duty imposed by the chief of police.

( [Ord. of 6-27-2016\(1\)](#) )

Section 5.7. - Employment of members of police department; equal opportunity.

Members of the police department shall be hired consistent with the city's hiring policies.

The board shall maintain a program to insure that all employment decisions made by any person under this section shall be made without regard to race, religion, color, creed, national origin, sex, age, or disability.

( [Ord. of 6-27-2016\(1\)](#) )

Section 5.8. - Compensation.

The members of the board shall serve without compensation.

( [Ord. of 6-27-2016\(1\)](#) )

Section 5.9. - Decisions final.

Decisions regarding disciplinary actions made by the chief, where no right to appeal exists, and all decisions of the board under this section, shall be final and not subject to judicial review.

( [Ord. of 6-27-2016\(1\)](#) )

Section 5.10. - Position elimination.

This section shall not apply to position eliminations due to workforce reductions.

( [Ord. of 6-27-2016\(1\)](#) )