CHAPTER 3.01: ADMINISTRATION

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GENERAL PROVISIONS

§ 3.01.001 GENERAL POWERS OF MAYOR AND COUNCIL.

(A) The government of the town and the general management and control of its affairs shall be vested in the Town Council.

(B) The powers and duties of the Mayor shall be such as are conferred upon him by law, together with other powers and duties as may be conferred upon him by the Council pursuant to law.
(Prior Code, Ch. 2, Art. I)

§ 3.01.002 COMPOSITION AND ELECTION OF GOVERNING BODY.

The governing body of the town shall consist of a Mayor and a Council of 5 members and shall be elected in accordance with provisions of the Town Charter and the applicable provisions of the General Statutes of North Carolina.
(Prior Code, Ch. 2, Art. I)

§ 3.01.003 COUNCIL-MANAGER FORM OF GOVERNMENT.

(A) *Council-Manager form of government*. Pursuant to G.S. § 160A-101 and § 160A-102, the Charter of the Town of River Bend as amended by an ordinance amendment, adopted by the Town Council on 4-18-2001 and approved by the voters at a special election held on 6-5-2001 allowing the Council-Manager form of government to become effective on 7-1-2001, the town shall operate under the Council-Manager form of government in accordance with G.S. § 160A part 2, Article 7 and any Charter provisions not in conflict therewith.

(B) *Duties of the Manager*. The Manager shall be the Chief Administrator of the town and shall be responsible to the Town Council for administering all municipal affairs placed in his or her charge by the Mayor and Council Members and shall have the following powers and duties as set forth in G.S. § 160A-148:

(1) He shall 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 the general personnel rules, regulations, policies or ordinances as the Council may adopt;

(2) He shall direct and supervise the administration of all departments, offices and agencies of the town, subject to the general direction and control of the Council except as otherwise provided

by law;

(3) He shall attend all meetings of the Council and recommend any measures that he deems expedient;

(4) He shall see that all laws of the state, the Town Charter, and the ordinances, resolutions and regulations of the Council are faithfully executed within the town;

(5) He shall prepare and submit the annual budget and capital program to the Town Council;

(6) He shall annually submit to the Council and make available to the public a complete report of the finances and administrative activities of the town within 2 months of the completion of the fiscal year;

(7) He shall make any other reports that the Council may require concerning the operation of town departments, offices and agencies subject to his or her direction and control; and

(8) He shall perform any other duties that may be required or authorized by the Council.

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

(D) *Interim Manager*. When the position of Town Manager is vacant, the Council shall designate a qualified person to exercise the powers and perform the duties of Manager until the vacancy is filled.

(E) *Elected officials as Manager, Acting Manager or Interim Manager*. No elected official may be appointed Town Manager, Acting Manager or Interim Manager.
(Prior Code, Ch. 2, Art. I)
Statutory reference:
Acting Manager, see G.S. § 160A-149
Interim Manager, see G.S. § 160A-150

§ 3.01.004 APPOINTMENT AND TERM OF OTHER OFFICERS AND EMPLOYEES.

(A) (1) Unless otherwise provided by statute or ordinance, officers and employees other than the Mayor and Town Council that are deemed necessary shall be appointed by the Town Council at the first meeting following the installation of the Town Council for a period of 2 years.

(2) All officers and employees shall serve at the pleasure of the Council.

(B) (1) The term ***OFFICERS*** shall include those persons designated as appointed officers by the General Statutes, this chapter or any other town ordinance. Persons holding the position of an appointed officer shall include, but not necessarily be limited to, the Finance Officer, Budget Officer, Tax Collector, and members of the Board of Adjustment. ***Amended 09/17/09***

(2) Any other person specifically designated as an officer by statute or town ordinance shall also be included.

(C) No member of a town advisory board, commission, committee or ad hoc committee shall be designated as an officer of the Town of River Bend unless otherwise provided by statute or town ordinance.
(Prior Code, Ch. 2, Art. I)

§ 3.01.005 BOND OF OFFICERS AND EMPLOYEES.

Bonds of officers and employees shall be as required by G.S. § 159-29.
(Prior Code, Ch. 2, Art. I)

§ 3.01.006 INTEREST OF OFFICERS AND EMPLOYEES IN CONTRACTS.

No member of the Council, the Mayor, or other officer or employee shall have a pecuniary interest, either direct or indirect, in any contract made or entered into by the Council, nor in any matter where the rights and liabilities of the town are or may be involved.
(Prior Code, Ch. 2, Art. I)

§ 3.01.007 QUALIFICATIONS FOR OFFICE.

Upon the motion of any member, the Council shall determine the qualifications of any member. An office may be declared vacant by a majority vote of the Council membership if the member fails to meet any of the statutory or constitutional requirements of the office.
(Prior Code, Ch. 2, Art. VII)

§ 3.01.008 COMPENSATION OF ELECTED/APPOINTED OFFICIALS.

As provided for by G.S. § 160A-64, the compensation of the Mayor and that of each other member of the Town Council shall be fixed by adoption of the annual budget ordinance. No sitting Council shall increase its own compensation or that of the sitting Mayor during its term. A Council may increase the compensation for an incoming Mayor and Council by providing for the increases in the budget ordinance with an effective date of January 1 of the new budget year. This compensation will accrue to each newly elected or appointed official commencing with the month following his or her election or appointment and will cease for each upon his or her last full month of service. Payment thereof will be made quarterly on the last workday of each calendar quarter.
(Prior Code, Ch. 2, Art. VIII)

MAYOR

§ 3.01.020 OATH.

The Mayor, before entering upon the duties of his or her office, shall take and subscribe before some person lawfully entitled to administer oaths, an oath of affirmation to support the Constitution of the United States and the Constitution of the state and the laws made pursuant thereto and to faithfully perform the duties of his or her office, which oath or affirmation shall be entered upon the minutes of the Council subscribed as provided in this section, attested by the officer administering the oath, and further shall be filed with the Town Clerk.
(Prior Code, Ch. 2, Art. II)

§ 3.01.021 DUTIES.

The Mayor shall be the chief executive of the town and shall perform the following duties:

(A) Attend and preside over all meetings of the Town Council;

(B) Sign all contracts, resolutions, franchises, ordinances and other documents authorized by the Council;

(C) May appoint members of special ad hoc committees that fall within the area of the Mayor's responsibilities and outline their duties, subject to the consent of the Council;

(D) Make recommendations to the Council from time to time concerning the affairs of the town;

(E) Represent the town at ceremonies and other official occasions; and

(F) Perform other duties and functions as authorized by the Council, the General Statutes of North Carolina or by the Town Charter.
(Prior Code, Ch. 2, Art. II)

TOWN COUNCIL

§ 3.01.035 OATH OF MEMBERS.

Each member of the Town Council, before entering upon the duties of his or her office, shall take and subscribe before some person lawfully entitled to administer oaths an oath or affirmation to support the Constitution of the United States and the Constitution of the state and the laws made pursuant thereto and to faithfully perform the duties of his or her office, which oath or affirmation shall be entered upon the minutes of the Council, subscribed as provided in this section attested by the officer administering the oath, and further shall be filed in the office of the Town Clerk.
(Prior Code, Ch. 2, Art. III)

§ 3.01.036 SELECTION AND DUTIES OF MAYOR AND MAYOR PRO TEMPORE.

The Council shall elect at its first meeting 1 of its members to serve as Mayor Pro Tempore to serve at the pleasure of the Council.
(Prior Code, Ch. 2, Art. III)

§ 3.01.037 FILLING VACANCIES OF AN ELECTIVE OFFICE.

(A) The procedures that follow apply to the filling of each position vacated by an elected official.

(B) Subject to the provisions of G.S. §§ 160A-59, 160A-63 and 160A-74, a vacancy that occurs in an elective office shall be filled by appointment of the Town Council and Mayor. The elected official vacating the position may vote on the selection of his or her replacement provided that the resignation becomes effective after the selection of the replacement.

(C) Upon receipt of notification that a position is vacant, or will become vacant, the Mayor shall

call a special meeting of the Town Council to be held within 1 week of the receipt of the notice, to consider the filling of the vacancy. If a regular Council meeting or work session is scheduled within 1 week of the receipt of the notification, it will not be necessary to convene a special meeting, and the topic "Filling of Vacancy" will automatically be placed upon the agenda of that meeting.

(D) At the meeting, the vacancy shall be recognized by the Council and instructions to fill the vacancy issued. In the event of resignation, the Council shall formally accept the resignation and set an effective date in accordance with the letter of resignation.

(E) Within 7 business days following the above meeting, the Town Clerk shall publish a "Notice of Vacancy" requesting applications from interested persons wishing to be considered for appointment. The applications are to be submitted to the Town Clerk by 4:00 p.m. on the fifteenth calendar day after publication of the "Notice of Vacancy." In accordance with G.S. §160A-59 and the Constitution of North Carolina, any person 21 years of age, residing in and a registered voter of River Bend, may submit an application.

(F) (1) At the meeting held under division (C) above, the Council shall determine how it wishes to conduct the selection process, and the candidates shall be informed of this process by the Town Clerk in writing upon submission of their applications.

(2) The Council and Mayor shall consider all applications meeting the requirements at the next regular Council meeting following the deadline date for submission of applications.

(3) At the conclusion of the deliberations, the names shall lay over until the next regular meeting at which time the Council shall select 1 of the candidates to fill the vacancy. However, if there is only 1 candidate to fill the vacancy, the candidate may be selected immediately following the deliberations.

(G) The Council and Mayor may not formally consider or fill a vacancy of an elective office except in an open meeting.

(H) The person appointed to fill the vacancy shall serve the remainder of the unexpired term.
(Prior Code, Ch. 2, Art. III)

MEETINGS

§ 3.01.050 ORGANIZATIONAL MEETING.

The organizational meeting of the Council shall be scheduled within 10 calendar days from the date the members have been officially notified of their election. The meeting shall be called by the Mayor-elect and shall not be later than the first regular meeting of the Council in December after the results of the election have been certified.
(Prior Code, Ch. 2, Art. III)

§ 3.01.051 REGULAR MEETING.

(A) The Council and the Mayor shall meet in regular session on the second and third Thursday of each month at 7:00 p.m. in the River Bend town hall unless otherwise determined by a majority of the Council and so posted at the town office. ***Amended 01/01/08***

(B) (1) The Council shall not deliberate, vote or otherwise take action on any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the Council to understand what is being deliberated, voted, or acted on.

(2) The Council may, however, deliberate, vote or otherwise take action by reference to an agenda, made available to the public at the meeting, which is sufficiently worded to enable the public to understand what is being deliberated, voted, or acted on.
(Prior Code, Ch. 2, Art. III)

§ 3.01.052 SPECIAL MEETINGS.

Special meetings may be called pursuant to the terms and procedures set out in G.S. § 160A-71(b). (Prior Code, Ch. 2, Art. III)

§ 3.01.053 VOTE OF MAYOR.

(A) The Mayor shall have the right to vote only where there is a tie vote excluding his or her vote or where the issue is the appointment of officers.

(B) The Mayor shall have no right to break a tie vote in which he participates.
(Prior Code, Ch. 2, Art. III)

§ 3.01.054 QUORUM.

A majority of the actual membership of the Council plus the Mayor, excluding vacancies, shall constitute a quorum. No official business shall be transacted by the Council unless a quorum is present.
(Prior Code, Ch. 2, Art. III)

§ 3.01.055 MINUTES.

Minutes shall be kept of all meetings of the Council and recorded in a book provided for same.
(Prior Code, Ch. 2, Art. III)

§ 3.01.056 AGENDA.

(A) Town Council work sessions are for the Council to prepare an agenda for the next regular Council meeting, exchange information and discuss issues of relevance to the town.

(B) Unless there is objection the Council may delete or add items to the proposed agenda by unanimous consent, otherwise adoption of the agenda shall require a majority vote of the Council members present at the work session. This action shall be recorded in the minutes of the meeting. Should any Council member or the Mayor wish to add an item to the agenda after the work session, they may do so provided an effort is made to contact all Council members and a majority of the Council approves the addition of the subject item to the agenda.

(C) The Town Clerk shall prepare the regular meeting package that shall include the agenda

approved by the Council, copies of proposed ordinances, standing rules and other pertinent data for each item of business in the order that they appear on the agenda. The Mayor and each Council member shall receive a copy of the agenda package no later than the time it is made available to the public. Sufficient copies will also be available to the public at the regular Council meeting.

(D) Any individual or group spokesperson who wishes to be on the agenda to address the Council shall make a written request to the Town Clerk on the form provided not later than the close of the last business day preceding the regular Council meeting day.

(E) (1) As its first order of business at each regular Council meeting, the Council shall review the meeting agenda.

(2) In the event there are any items on the agenda that are not ready for discussion or which have not been approved, the Council by majority vote may delete the items from the agenda.
(Prior Code, Ch. 2, Art. III)

§ 3.01.057 ORDER OF BUSINESS.

Items of business shall be taken up at the meeting in the order that they appear on the agenda unless the Council, by majority vote, agrees to consider an item out of its listed order of appearance.
(Prior Code, Ch. 2, Art. III)

§ 3.01.058 PRESIDING OFFICER.

The Mayor shall preside at meetings of the Council. A member must be recognized by the Mayor in order to address the Council.
(Prior Code, Ch. 2, Art. III)

§ 3.01.059 POWERS OF PRESIDING OFFICER.

As presiding officer, the Mayor shall have the following powers in addition to those conferred elsewhere in this chapter:

(A) To rule motions in or out of order, including the right to rule out of order any motion clearly offered for obstructive or dilatory purposes;

(B) To determine whether a speaker has violated reasonable standards of courtesy in his or her remarks and to entertain and rule upon objections from other members on this ground;

(C) To entertain and answer questions of parliamentary law or procedure, subject to being overruled by vote of 2/3 of the present and voting members of the Council;

(D) To call a brief recess at any time; and

(E) To adjourn in the event of an emergency.
(Prior Code, Ch. 2, Art. III)

§ 3.01.060 MOTION.

(A) In the event a proposal is clear to all members present, and there is no objection, an action may be taken by unanimous consent.

(B) Otherwise, a motion shall be required to bring the matter before the Council for consideration. ***Amended 11/18/10***

(C) Once a motion has been stated, the chair shall open the floor for debate upon the motion. ***Amended 11/18/10***

(D) When a motion comes to a vote, every member of the Council must vote unless excused by the remaining members.

(E) The results of each vote shall be recorded in the minutes, and the number of ayes and nays upon any question shall be taken.
(Prior Code, Ch. 2, Art. III)

§ 3.01.061 ROBERT'S RULES OF ORDER ADOPTED.

Repealed Effective 1/1/2011

§ 3.01.062 CLOSED SESSIONS.

(A) (1) The Council may hold closed sessions in accordance with G.S. Chapter 143, Article 33 C.

(2) A duly made motion shall be adopted by the Council in an open session giving the purpose(s) of the closed session.

(3) The purposes to go into closed session are set out in G.S. § 143-318.11.

(B) Full and accurate minutes and a general account of closed sessions shall be kept and they may be withheld from public inspection so long as public inspection would frustrate the purpose of the closed sessions per G.S. § 143-318.10(e).
(Prior Code, Ch. 2, Art. III)

§ 3.01.063 PUBLIC HEARINGS.

(A) (1) Public hearings required by law or deemed advisable by the Council shall be scheduled pursuant to a motion adopted by a majority vote of the Council setting forth the subject, date, place and time of the hearing.

(2) The Council may also adopt reasonable rules regarding the length of time of each speaker and other matters regarding the conduct of the hearing.

(B) (1) At the time appointed for the hearing, the Mayor shall call the hearing to order and then preside over it.

(2) Upon expiration of the time allotted for the hearing, or when there are no individuals who wish to speak who have not done so, the Mayor shall declare the hearing ended.

(C) A quorum of the Council shall be required at all public hearings.
(Prior Code, Ch. 2, Art. III)

GENERAL ADMINISTRATION

§ 3.01.075 APPOINTMENT OF TOWN MANAGER.

(A) In accordance with North Carolina General Statute 160A-147, the Council shall appoint a Town Manager to serve at its pleasure. Such appointment is to be made solely on the basis of the manager's executive and administrative experience. Manager shall perform the duties outlined in G.S. § 160A-148 which are also described in § 3.01.003. ***Amended 09/17/09***

(B) The following non-exclusive list of department heads may be appointed by, removed by, and shall be administratively supervised by, the Town Manager:

(1) Chief of Police
(2) Finance Administrator
(3) Town Clerk
(4) Zoning Administrator
(5) Water Resources/Public Works Superintendent

Added 09/17/09

(Prior Code, Ch. 2, Art. IV)
Cross reference:
Appointment and term of other officers and employees, see § 3.01.004

§ 3.01.076 APPOINTMENT OF TOWN CLERK.

The Manager shall appoint a town clerk who shall perform the duties outlined in G.S. § 160A-171 and as assigned by the Council. ***Amended 09/17/09***
(Prior Code, Ch. 2, Art. IV)
Cross reference:
Appointment and term of other officers and employees, see § 3.01.004

§ 3.01.077 APPOINTMENT OF TOWN ATTORNEY.

The Council shall appoint a Town Attorney to serve at its pleasure and to be its legal advisor.
(Prior Code, Ch. 2, Art. IV)
Cross reference:
Appointment and term of other officers and employees, see § 3.01.004

§ 3.01.078 APPOINTMENT OF ZONING ADMINISTRATOR.

The Town Manager may appoint a Zoning Administrator who shall perform the duties that are specified by town ordinances and as assigned by the Town Council. Absent an appointment of an individual to this position, the Town Manager shall be the Zoning Administrator. ***Amended 09/17/09***
(Prior Code, Ch. 2, Art. IV)

Cross reference:
Appointment and term of other officers and employees, see § 3.01.004

FINANCE

§ 3.01.090 APPOINTMENT OF BUDGET OFFICER.

The Council shall appoint the Town Manager as a Budget Officer who shall perform the duties outlined in G.S. §§ 159-9 to 12 and related provisions of the General Statutes. ***Amended 09/17/09***
(Prior Code, Ch. 2, Art. V)
Cross reference:
Appointment and term of other officers and employees, see § 3.01.004

§ 3.01.091 APPOINTMENT OF FINANCE OFFICER.

The Council shall appoint a Finance Officer who shall perform the duties outlined in G.S. § 159-25 and related provisions of the General Statutes.
(Prior Code, Ch. 2, Art. V)
Cross reference:
Appointment and term of other officers and employees, see § 3.01.004

§ 3.01.092 APPOINTMENT OF TAX COLLECTOR.

If the town collects taxes, the Town Council shall appoint a Tax Collector who shall perform those duties that are specified by G.S. § 105-350 "General Duties of Tax Collectors" and as assigned by the Town Council.
(Prior Code, Ch. 2, Art. V)
Cross reference:
Appointment and term of other officers and employees, see § 3.01.004

§ 3.01.093 REFUND OR RELEASE OF AD VALOREM TAXES.

(A) The Finance Officer is delegated authority to approve requests for refund or release of tax of less than $100.

(B) The Finance Officer shall make monthly reports to the Council concerning the actions taken on requests for release or refund.

(C) Actions taken shall be recorded in Council meeting minutes.
(Prior Code, Ch. 2, Art. V)

§ 3.01.094 DELEGATE AUTHORITY TO DISPOSE OF PERSONAL PROPERTY VALUED AT LESS THAN $5,000.

(A) Pursuant to the provisions of G.S. § 160-A266(c) the Finance Officer is hereby authorized to dispose of any surplus personal property owned by the Town of River Bend whenever he determines, in his discretion, that:

(1) The item or group of items has a fair market value of less than $5,000;

(2) The property is no longer necessary for the conduct of public business; and,

(3) Sound property management principles and financial considerations indicate that the interests of the town would best be served by disposing of the property.

(B) The Finance Officer may dispose of any surplus personal property by any means which he judges reasonably calculated to yield the highest attainable sale price in money or other consideration, including but not limited to the methods of sale provided in G.S. § 160A, Article 12. The sale may be public or private, and with or without notice and minimum waiting period.

(C) The surplus property shall be sold to the party who tenders the highest offer, or exchanged for any property or services useful to the town if greater value may be obtained in that manner, and the Finance Officer is hereby authorized to execute and deliver any applicable title documents. If no offers are received within a reasonable time, the Finance Officer may retain the property, obtain any reasonably available salvage value, or cause it to be disposed of as waste material. No surplus property may be donated to any individual or organization except by resolution of the Town Council.

(D) The Finance Officer shall keep a record of all property sold under authority of this subchapter and that record shall generally describe the property sold or exchanged, to whom it was sold, or with whom exchanged, and the amount of money or other consideration received for each sale or exchange.

(E) The Finance Officer shall report in writing to the Town Council on any property disposed of under this subchapter as follows: on February 1 on any property disposed of from July 1 through December 31 of the previous year, and on August 1 on any property disposed of from January 1 through June 30 of the same year.
(Prior Code, Ch. 2, Art. V)

§ 3.01.095 DELEGATE AUTHORITY TO PURCHASE APPARATUS, SUPPLIES, MATERIALS OR EQUIPMENT.

(A) *Grant of authority*. Subject to the restrictions and conditions hereinafter provided, when purchasing apparatus, supplies, materials or equipment for use by the Town of River Bend, in addition to the authority as may be provided by G.S. § 143-129(a) and/or otherwise delegated by the Town Council, the Finance Officer shall have the authority to:

(1) Prepare, or cause to be prepared, plans and/or specifications setting forth a complete description of the item(s) to be purchased and the characteristics, features and/or requirements therefor;

(2) Include, where appropriate, in specifications for the item(s) to be purchased an opportunity for bidders to purchase as trade-in specified personal property owned by the town;

(3) Advertise, or otherwise secure bids, for item(s), if required under applicable law;

(4) Award contracts for the purchase of the item(s) and, where applicable, award contracts for the purchase of the item(s) and the sale of trade-in property;

(5) Reject bids;

(6) Readvertise to receive bids;

(7) Waive bid bond or deposit requirements;

(8) Waive performance and payment bond requirements; and

(9) Execute and deliver the purchase contract(s).

(B) *Report*. At the first meeting of the Town Council following the award of any contract(s) pursuant to this subchapter, the Finance Officer shall submit a report to the Town Council summarizing the bids received and the contract(s) awarded. The report shall be included in the minutes of the meeting at which it is received.

(C) *Extent of authority*. Except in cases of sole source purchases pursuant to G.S. § 143-129(f) and cases of purchases from established contracts pursuant to G.S. § 143-129(g), unless otherwise provided by law, the provisions of this subchapter shall apply to the purchase of apparatus, supplies, materials or equipment requiring the estimated expenditure of municipal funds in an amount not to exceed $15,000 for any 1 item or group of similar items.

(D) *No limitation of other authority*. The provisions of this chapter are not intended to limit, restrict or revoke, in any manner, authority otherwise granted and/or delegated to the Finance Officer by statute, law or action of the Town Council.

(E) *Appropriation required*. No purchase shall be made by the Finance Officer under authority of this subchapter unless an appropriation for the purpose has been authorized in the annual budget, or by supplemental appropriation or budget appropriation amendment duly adopted by the Town Council.

(F) *Application of General Statutes*. In acting pursuant to the authority delegated by this subchapter, the Finance Officer shall comply with the requirements of G.S. Article 8, Chapter 143, as from time to time amended, modified, supplemented, revised or superseded, to the same extent as would have otherwise applied to the Town Council.
(Prior Code, Ch. 2, Art. V)

§ 3.01.096 SPECIAL ASSESSMENTS.

(A) *Purpose of subchapter*. Whereas the Town of River Bend is authorized to make special assessments against benefited property within its corporate limits as set forth in G.S. § 160A-216, this subchapter is enacted to accomplish those purposes as more particularly set forth in G.S. Chapter 160A, Article 10.

(B) *Special assessment procedure*. The Town of River Bend, when consenting to undertake any special assessment activity as set forth in G.S. § 160A-216, shall at all times follow the procedures and requirements as set forth in G.S. Chapter 160A, Article 10.

(C) *Assessment methodology: discretionary decisions*. At any time when the Town Council shall have discretion relating to any aspect of special assessments, it shall endeavor to balance the needs of the town in general, the needs of those citizens of the town who are benefitted by the special assessments, economic considerations and any other considerations which the Town Council, in its sole discretion, deems advisable.
(Prior Code, Ch. 2, Art. V)