



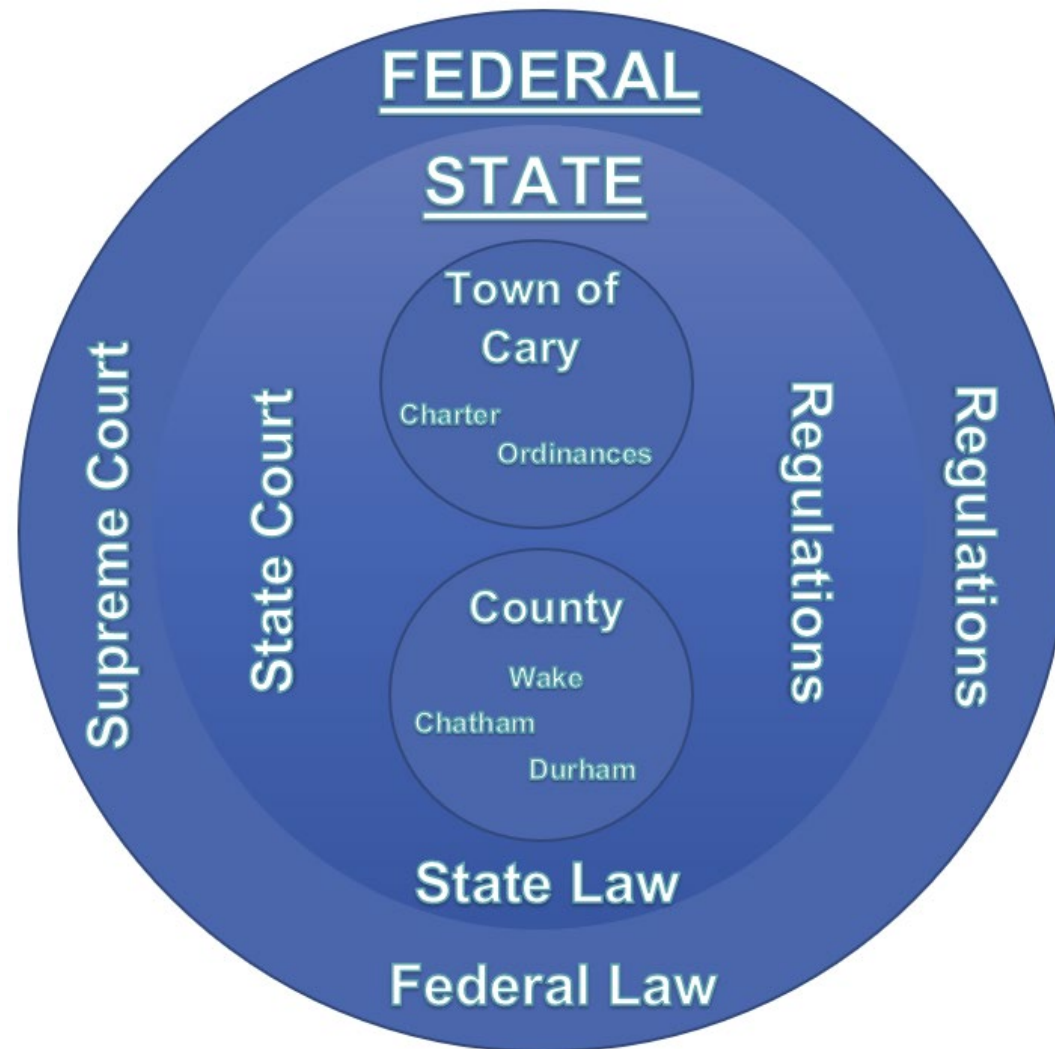
LEGAL FOUNDATION OF MUNICIPALITIES

NICK YATES, SENIOR
ASSISTANT TOWN ATTORNEY



- Where do cities come from?
- What can cities do?
- What is the role of the Town Attorney?

LAYERS OF GOVERNMENT



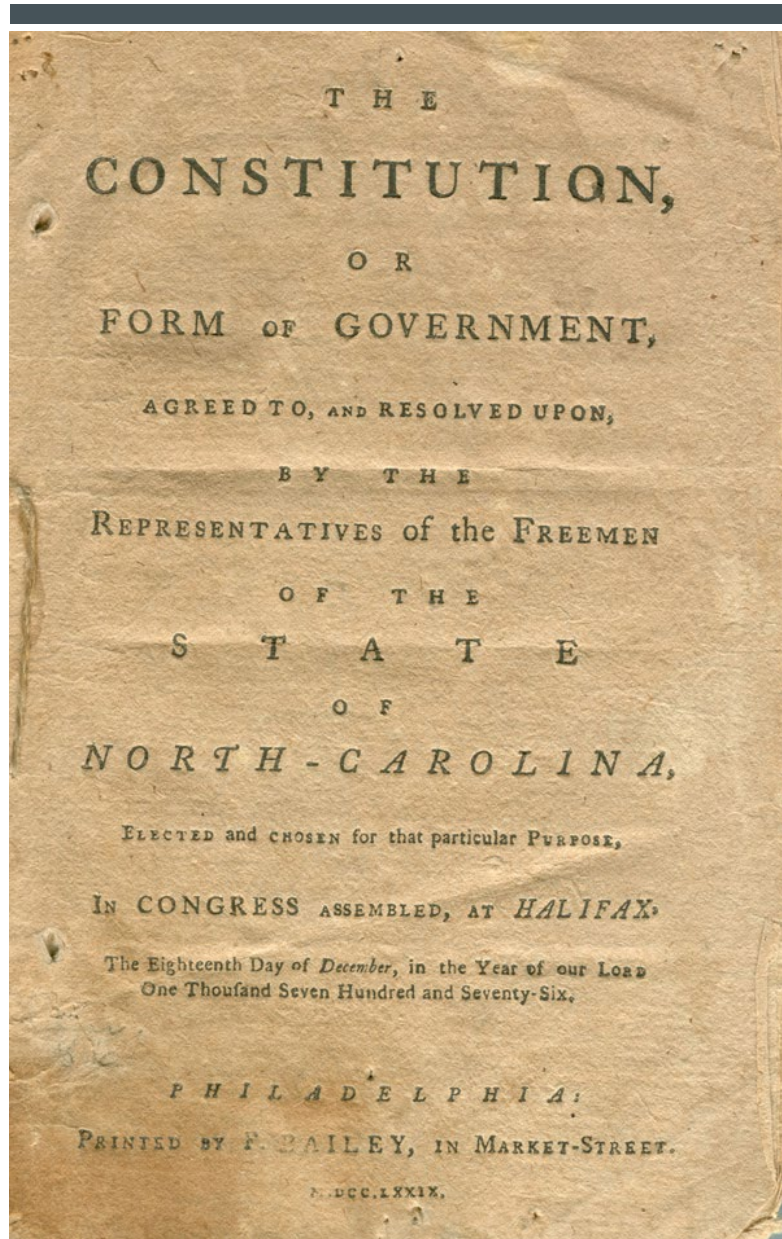
WE THE PEOPLE

insure domestic Tranquility, provide for the common Defence,
and our Posterity, do ordain and establish this Constitution

Article I

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 1. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, in which Representation shall not have attained to the Age of twenty five Years, and seven Years a Citizen of the United States, which may be included within this Union, when they shall have been three Years; and they shall, when first Meeting, choose one of their Number to be Speaker of the House of Representatives.



ARTICLE VII, SECTION 1

“The General Assembly shall provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and ... may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable.”

CHAPTER LXXX.

AN ACT TO INCORPORATE THE TOWN OF CAREY, IN WAKE
COUNTY.

SECTION 1. *The General Assembly of North Carolina do* Corporate name.
enact, That the village in Wake county known as Carey, is
hereby incorporated by the name of "The town of Carey,"

SEC. 2. That the limits of said town shall be lines running at the distance of one-half mile from the warehouse of the Chatham railroad company in said town, and parallel with the four walls thereof.

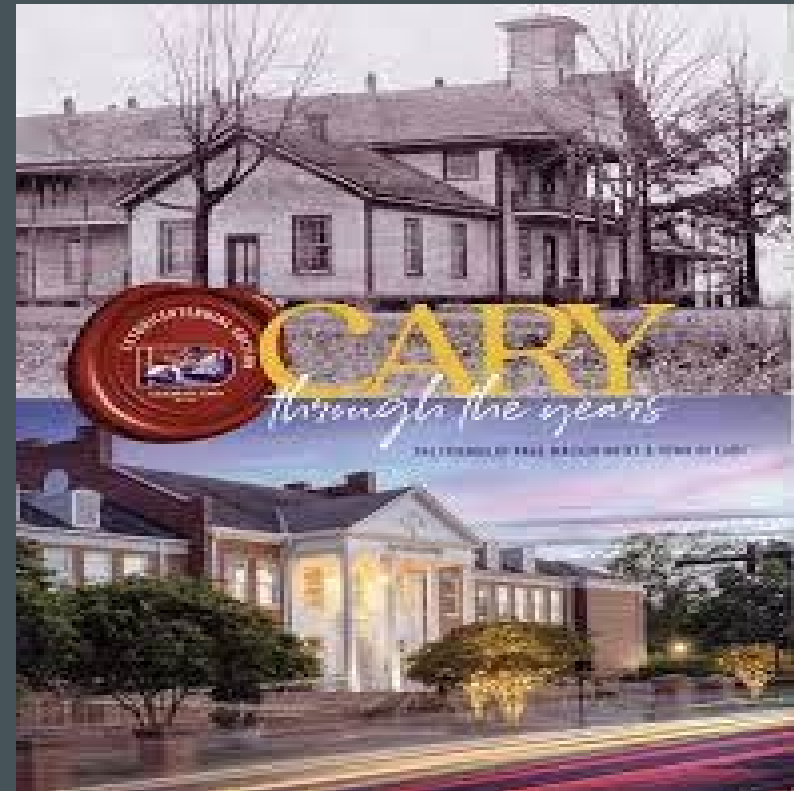
SEC. 3. That any licenses to retail spirituous liquor, wine or cordial at Carey, or within two miles thereof, shall be void, and no person shall erect, keep, maintain, or have at Carey or within two miles thereof any tippling house, establishment or place for the sale of wines, cordials, spirituous or malt liquors.

SEC. 4. That the commissioners of said town shall be five in number, and that until their successors shall be elected under the laws of the state, the following persons, viz: R. H. Jones, A. H. Merritt, M. P. Mallett, H. B. Jordan and W. H. Bobbitt, shall be commissioners, and A. F. Page shall be mayor of said town, with all the powers by law conferred upon such officers.

SEC. 5. That this act shall be in force from and after its ratification.

Ratified the 3d day of April, A. D. 1871.

THE TOWN OF CAREY





2019 S-77_S-50 (current)

Cary Overview

- Cary, NC Code of Ordinances
 - CODE OF ORDINANCES TOWN OF CARY, NORTH CAROLINA
 - THE CHARTER OF THE TOWN OF CARY**
 - ARTICLE I. INCORPORATION AND GENERAL POWERS
 - ARTICLE II. CORPORATE BOUNDARIES
 - ARTICLE III. MAYOR, TOWN COUNCIL AND APPOINTEES
 - ARTICLE IV. [RESERVED]
 - ARTICLE V. [RESERVED]
 - ARTICLE VI. STREET AND

THE CHARTER OF THE TOWN OF CARY

Article I. Incorporation and General Powers

- Sec. 1.1. Incorporation and general powers.
- Sec. 1.2. Enumerated powers not exclusive.
- Sec. 1.3. Exercise of powers.
- Sec. 1.4. Form of government.

Article II. Corporate Boundaries

- Sec. 2.1. Existing corporate boundaries.
- Sec. 2.2. Extension of corporate boundaries.

Article III. Mayor, Town Council and Appointees

- Sec. 3.1. Form of government.
- Sec. 3.2. Number and qualification of Council members and Mayor generally.
- Sec. 3.3. Legislative powers.

CHARTER OF THE TOWN OF CARY



Incorporates Cary as a Municipal Corporation (a “Town”)



Like a Business

“Artificial person”

Lives forever unless dissolved



Not like a business

No stockholders

Not profit driven

Has taxing power



Each city’s charter is unique

Council composition

Specific authority

“HOME RULE” VERSUS “DILLON’S RULE”/NC RULE

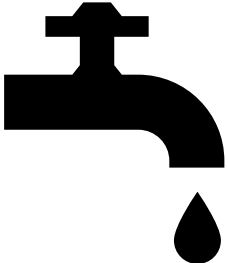
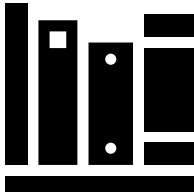
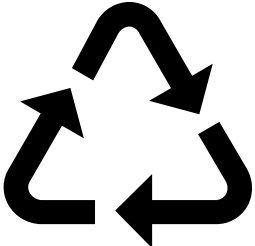
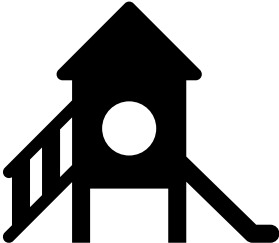
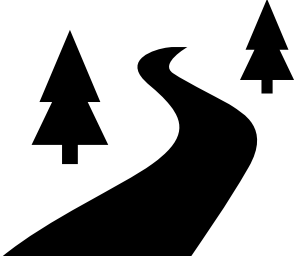
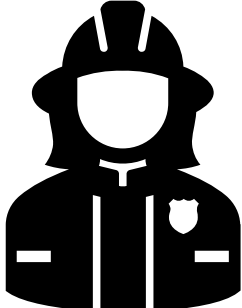
Home Rule

- Cities are granted broad authority over matters of local concern
- Courts must determine what is a “local” concern
- Examples: Illinois, New York

North Carolina

- Cities are granted authority through subject-specific statutes and local legislation
- Courts must determine if individual statutes authorize a city’s activity

COUNTY OR CITY?



Sizing up the Worst Single Serving Beverages



2 liter = 67 oz.



7-Eleven's Double Big Gulp = 64 oz.



Sonic's Route 44 = 44 oz.



Starbucks' Trenta = 31 oz.



The Human Bladder = 13.5 - 20.3 oz.



CAN CARY REGULATE SOFT DRINKS?

CAN CARY REGULATE SOFT DRINKS?

- Does the Charter speak to this?
 - If yes, that controls.
 - If no, we look elsewhere.

CAN CITIES REGULATE SOFT DRINKS?

§ 160A-203. Limitations on regulating soft drink sizes.

No city ordinance may prohibit the sale of soft drinks above a particular size. This section does not prohibit any ordinance regulating the sanitation or other operational aspect of a device for the dispensing of soft drinks.

HOW DOES CARY TAKE ACTION?

Council enacts Ordinances (laws) or
directs action through Resolutions



OPEN MEETINGS

- Why? Public business should be done in public
- When? Required whenever there is a quorum of a “public body” (wherever located) doing public business
- How? Advance public notice, public access, and minutes





ETHICS

ACCOUNTABILITY

PRINCIPLES

INTEGRITY

VALUES

PUBLIC RECORDS

- Very broad definition
 - Medium doesn't matter
 - Records, not information
- Some records are confidential
- Staff must retain records for certain time periods
- Denying access is a misdemeanor



ROLE OF THE TOWN ATTORNEY

*“The Town Attorney shall be the **legal advisor to the Town** and perform such duties as may be specified by the Council or specified by law. The attorney shall be appointed with regard to merit only and need not be a resident of the Town when appointed. The attorney shall **hold office at the pleasure of the Town Council** and shall receive such compensation as it shall fix by ordinance.”*

Charter, Section 3.10



ROLE OF THE TOWN ATTORNEY

- Represents the municipal corporation – Cary
- Does not represent individual council members, the Town Manager, or other staff members
- Does not provide advice to private citizens
- Provides recommendations only
- “Typical” day:
 - Advise and provide legal counsel to Cary Staff Members
 - Review pending legislation, recent court rulings, and critical agreements
 - Work within existing laws to assist Staff in providing services to Cary residents
 - Partner with Staff to anticipate potential issues and aid execution of major Cary initiatives.
 - Advise and provide guidance to Council during Council meetings



CARY LEGAL

