

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 1013
HOUSE BILL 1043

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF
EDENTON IN CHOWAN COUNTY.

The General Assembly of North Carolina do enact:

Section 1. The Charter of the Town of Edenton is hereby revised and consolidated to read as follows:

"CHAPTER I. INCORPORATION AND BOUNDARIES

Section 1. Body Politic and Corporate. The inhabitants of the Town of Edenton shall continue to be a body politic and corporate, incorporated under the name 'Town of Edenton' and under this name shall have perpetual succession, may adopt a corporate seal, may sue and be sued, may enter into contracts, and shall have all the rights, powers, and duties now or hereafter prescribed by the general laws of North Carolina pertaining to incorporated cities and towns, and as more particularly prescribed by this Charter as now written or as hereafter amended.

Section 2. Corporate Boundaries. The corporate boundaries of the Town of Edenton shall be as follows until hereafter changed from time to time as provided by the laws of North Carolina:

The corporate boundaries of the Town of Edenton shall be as the same now exist as established by law and as shown on maps duly of record in the office of the Register of Deeds of Chowan County, to which reference is hereby made for more particular description, until hereafter changed from time to time in accordance with the laws of North Carolina.

"CHAPTER II. ELECTIONS

Section 1. Time of Election. Elections for town officials shall be held biennially on Tuesday after the first Monday in May of each odd-numbered year.

Section 2. Notice of Candidacy. Candidates for elective office shall file notice of candidacy with the Chowan County Board of Elections at least ten days prior to the date of the election for such office.

Section 3. Qualifications for Office. Any qualified voter in the town shall be eligible to hold office. The qualifications for voters in town elections shall be the same as for voters for the office of members of the General Assembly in general elections, and each voter must vote in person and there shall be no voting by absentee ballot.

Section 4. Elective Officers, Terms. There shall be elected, as provided herein, a Mayor, six Councilmen, a Treasurer, and five members of the Board of Public

Works. There shall be one Councilman from each of the four wards described below, and two Councilmen at large.

Beginning with the regular election in May, 1963, the Councilmen elected from the First and Second Wards shall serve for terms of four years; the Councilmen elected from the Third and Fourth Wards shall serve for terms of two years; the Councilman at large elected by the highest number of votes cast for said office shall serve for a term of four years; the Councilman at large elected by the second highest number of votes cast for said office shall serve for a term of two years; the three members of the Board of Public Works elected by the first, second and third highest number of votes cast for said office shall serve for terms of four years; the two members of the Board of Public Works elected by the fourth and fifth highest number of votes cast for said office shall serve for terms of two years.

Beginning with the regular election in May, 1965, and biennially thereafter, the terms of office of Councilmen and members of the Board of Public Works elected at said elections shall be four years.

The Mayor and the Treasurer shall be elected biennially and shall serve for terms of two years.

Section 5. Voting Wards. For the purpose of town elections, the Town of Edenton is hereby divided into wards as follows:

Ward One. That portion of town bounded on the North by the center line of Church Street, on the East by the center line of Broad Street; and South and West by the outer boundaries of the town, shall constitute and be known as the First Ward.

Ward Two. That portion of town bounded on the North by the center line of Carteret Street, East and South by the outer boundaries of the town, and West by the center line of Broad Street shall constitute and be known as the Second Ward.

Ward Three. That portion of town bounded on the East by the center line of Broad Street and Broad Street extended or Iredell Avenue, South by the center line of Church Street and West and North by the outer boundaries of town shall constitute and be known as the Third Ward.

Ward Four. That portion of town bounded on the West by the center line of Broad Street and Broad Street extended or Iredell Avenue, South by the center line of Carteret Street and North and East by the outer boundaries of the town shall constitute and be known as the Fourth Ward.

Section 6. Elections Conducted by County. The elections herein provided for shall be conducted by the Chowan County Board of Elections under the same statutory rules and regulations provided for municipal elections under Article 3 of Chapter 160 of the General Statutes and all amendments thereto not inconsistent with the specific provisions of the Chapter. The said Board of Elections shall have the same power and authority over said municipal elections that it has with respect to State and county elections. Provided, no oath with respect to any particular party shall be required of any candidate or voter as a prerequisite to his or her qualifying as a candidate or voter.

Section 7. Polling Places, Election Officials. Elections shall be held at some convenient polling place to be selected by the Chowan County Board of Elections in

each of the wards and a registrar and two judges of election who shall be of good character shall be appointed by the said Board of Elections for each ward.

Section 8. Returns to be Canvassed. The Chowan County Board of Elections shall be the Board of Canvassers, and shall meet on the first Friday after the election to canvass the vote. The returns of the election shall be made to the Chairman of said Board before that time, and the Chairman shall present to the said Board of Canvassers the names of those persons receiving the highest number of votes for the various offices to be filled, who shall be declared elected, and shall receive a certificate of election under the seal of the town, signed by the Mayor and Clerk. The canvass of votes shall be spread on the journal, together with the result, stating the names of all persons declared to be elected by the canvassers, and the decision on each proposition voted upon. The neglect of any officer to qualify within ten days after notice of his election shall be deemed a refusal to accept. Whenever there is a tie in the election for any office, the Board of Canvassers shall determine, by lot, the person entitled to receive the certificate of election. It shall be the duty of the Chairman of said County Board of Elections to preserve intact all ballots cast in any election for town officers for a period of one year after the same have been delivered to him by the judges of such elections.

"CHAPTER III. LEGISLATIVE

Section 1. Governing Body. The legislative powers of the Town of Edenton are hereby vested in the governing body consisting of a Mayor and a Board of Councilmen of six members elected as provided by this Charter.

Section 2. Term of Office to Begin. The Mayor and Councilmen, the Treasurer, and the members of the Board of Public Works elected as provided in this Charter, shall be qualified before any Justice of the Peace, or other officer authorized to administer oath, upon the first Monday after their election, and their term of office shall begin on that day.

Section 3. Oath of Office. Before entering upon the duties of their respective offices, each of the officers as provided in this Charter, shall be qualified by taking the following oath before some Justice of the Peace of Chowan County, or other officer authorized to administer oath, to wit: 'I, A. B., do solemnly swear (or affirm) that I will faithfully discharge the duties of the office of _____, of the Town of Edenton, according to law, to the best of my knowledge and ability, so help me God.'

Section 4. Compensation of Councilmen, The members of the Board of Councilmen shall receive as full compensation for the performance of their duties as Councilmen the sum of ten dollars (\$10.00) each for each meeting attended.

Section 5. Officials Disqualified for Certain Positions. No member of the Board of Councilmen, the Mayor, nor any member of the Board of Public Works shall ever be elected or appointed to any office created by or the compensation of which was increased or fixed by the Board while he was a member thereof until after the expiration of at least two years after he has ceased to be a member of said Board.

Section 6. Mayor to Preside. The Mayor shall preside at all meetings and shall be allowed to vote at said meetings only in case of a tie.

Section 7. Mayor Pro Tempore. The Board of Councilmen shall name one of its members as Mayor Pro Tempore to act during the absence of the Mayor with the same authority as is vested in the Mayor.

Section 8. Meetings. The Board of Councilmen shall meet at least once every month in regular meeting, at such time and place as may be fixed by ordinance. The Board of Councilmen may provide for the holding of special and adjourned meetings.

Section 9. Quorum. Four members of the Board of Councilmen shall constitute a quorum for the transaction of business, but no final action shall be taken in any matter respecting the department of any absent Councilman, unless such business has been made a special order, with notice to such Councilman of such contemplated action, or unless such action is taken at a regular meeting of the Board.

Section 10. Vacancies. In case of any vacancy from any cause in the office of Mayor, Treasurer, or any Councilman or member of the Board of Public Works, the Board of Councilmen shall by a majority vote of all the members thereof elect some suitable person to fill the unexpired term. The resignation of the Mayor, Treasurer, or any Councilman, or member of the Board of Public Works shall be made in writing to the Board of Councilmen for their action thereon. If the Mayor or any other officer shall remove his residence from the territorial limits of Edenton, such removal shall, ipso facto, be deemed to create a vacancy in his office.

Section 11. Procedure. The Board of Councilmen may fix by ordinance the procedure governing the conduct of its meeting, not inconsistent with the provisions of this Charter.

"CHAPTER IV. GENERAL ADMINISTRATION

Section 1. Mayor Chief Executive Officer. He shall be the Chief Executive Officer of the town, and shall have general supervision and control of all other officers, departments and affairs of government of the town, and shall take care that the provisions of this Act and all ordinances of the town are complied with.

Section 2. Mayor to Sign Commissions. The Mayor shall sign the commissions of all officers elected or appointed by the town and endorse the approval of all official bonds by the said Board.

Section 3. Mayor to Recommend. The Mayor shall from time to time communicate to the Board of Councilmen, in writing, such information and recommend such measures as in his opinion may tend to the improvement of the finances of the town, the police, health, security, ornament, comfort, and general prosperity of the town.

Section 4. Compensation of Mayor. The Mayor of the Town of Edenton, in Chowan County, shall receive as full compensation for the performance of his duties as Mayor the sum of one hundred dollars (\$100.00) per month, payable from the general fund of the town.

"CHAPTER V. BOARD OF COUNCILMEN

Section 1. Specific Duties Assigned Each Councilman. The Board of Councilmen shall, by a majority vote of all members thereof, designate from among their number one Councilman, who shall be known as Commissioner of Finance and Revenue, who shall have under his special charge the preparation of an annual budget

and the recommendation of the levy of taxes, and the collection of all revenues belonging to the Town of Edenton, from whatever source the same may be derived, and the management of the finances of the Town of Edenton, except that pertaining to the electric lights and waterworks, which shall be under the exclusive management of the Board of Public Works; and one Councilman, who shall be known as the Commissioner of Streets and Public Improvements, who shall have under his special charge the supervision of streets and alleys, and the repair, construction and maintenance of sidewalks, bridges and storm sewers and all other public improvements not herein otherwise provided for, and shall have general supervision over the engineering department of the town, and he shall also see that all contracts for public improvements under his supervision are faithfully complied with, and that the conditions of all permits to excavate in the streets, alleys and sidewalks of the town and the grant of any franchise or privilege are faithfully performed; and one Councilman, who shall be known as the Commissioner of Parks and Public Property, who shall have under his supervision the town commons and all public squares and parks of the said town, and shall have supervision over the Health Department of the said town, and shall keep the streets, alleys and sidewalks of the said town in a sanitary condition, and shall enforce all rules and regulations necessary to these ends, and shall protect the health of the inhabitants of the said town. Said Board of Councilmen, so constituted, shall have control and supervision over all departments of said town, and to that end shall have power to make and enforce such rules and regulations as they may see fit and proper for and concerning the organization, management and operation of all the departments of said town and whatever agencies may be created for the administration of its affairs. The said Board may from time to time assign such further duties to each of said Councilmen as shall be for the best interest of the town, or add to either committee, as they see fit.

Section 2. Duties of Councilmen as Department Heads. The Councilman named for the head of each department shall approve all accounts and claims against it, unless he be absent or fail or refuse so to do, in which event the Mayor shall appoint another Councilman to act in his stead during his absence, or to audit such claims and accounts as said Councilman shall fail or refuse to act upon. Before payment, all accounts shall be acted upon by the whole Board of Councilmen at a regular meeting. The said Board shall require a statement to be published at the end of each fiscal year, on or before the thirtieth day of June, showing a full, clear and complete statement of all taxes and other revenues collected and expended during the preceding year, including the respective sources from which the moneys are derived, and also including the disposition made thereof.

"CHAPTER VI. APPOINTIVE OFFICERS

Section 1. Board Appoints Officers. The Board of Councilmen may appoint, by a majority vote of all members thereof, the following officers: Town Attorney; Town Clerk; Tax Collector; Chief of Police, and such other officers as in their judgment are necessary; provided, the duties of the Clerk and the duties of the Tax Collector may be combined in one office.

Section 2. Duties of Attorney. The Town Attorney shall attend, either in person or by deputy, all cases wherein the town is a party in all courts, and he shall be under the immediate direction of the said Board, and shall have full charge and control of the legal department of the town.

Section 3. Appointment of Clerk. The Board of Councilmen of the said town shall appoint a proper person of said town to be their Clerk, to act as such during good behavior, who shall be allowed a reasonable salary, and enter into bond with the Board of Councilmen and their successors, with sufficient security for the due and faithful execution of his office, and the trust reposed in him for the safekeeping of the books and papers put into his care, and keeping a regular and fair journal of the proceedings of the Board of Councilmen.

Section 4. Duties of the Clerk. The Clerk shall attend all meetings of the Board of Councilmen. Keep a true record of all its proceedings, and also keep a record of all its official acts, and when necessary shall attest them. He shall also keep and preserve in his office the corporate seal of the town, all records, police papers, and documents of the town not belonging to any other officer. He shall be authorized to administer oaths; and the copies of all papers filed in his office, and transcript from the records of the proceedings of the Council, including ordinances duly certified by the Mayor under the corporate seal of the town, shall be taken as evidence in all courts of the State without further proof. He shall draw all warrants on the Town Treasurer, issue all licenses and perform such other duties as may be prescribed by ordinance.

Section 5. Duties of the Treasurer. The Town Treasurer shall give a good and sufficient bond, in some reputable surety company, to the town, in such amount and in such form as may be prescribed by the Board of Councilmen, in a sum not less than ten thousand dollars (\$10,000.00), and the cost of such bond shall be borne by the town, and said bond, before its acceptance, shall be approved by the Mayor, and Commissioner of Finance and Revenue, and shall be conditioned for the faithful discharge of his duties, and that such Treasurer shall safely keep all public moneys entrusted to his care, and save such town free and harmless from all loss caused by neglect of duty or malfeasance in office. Said Board shall require the Treasurer to give a new bond whenever in their opinion the existing bond is insufficient, and whenever such new bond is required he shall perform no official act until such bond shall be given and approved, as aforesaid. It shall be his duty to receive and keep all money belonging to the said town, and to pay out the same on warrants drawn by the Town Clerk and signed by the Mayor, and not otherwise. All moneys belonging to said town and received by any officer or agent thereof, from collection or any other source whatever, shall be by him deposited with the Town Treasurer daily. For all moneys received the Treasurer shall give duplicate receipts in all cases, one to the party paying the said money and the other to the Auditor. All persons charged with the collection of any money under this Act, or ordinance passed in pursuance thereof, shall promptly pay the same over to the Treasurer, under such penalty as may be prescribed by ordinance, and shall forthwith hand the Treasurer's receipt to the Auditor, who shall countersign the original receipt and retain the duplicate. The party paying shall hold the original receipt. Said Treasurer shall render a full and correct itemized statement of all receipts and

payments to the Board of Councilmen at their regular meeting in each month and at such other times as may be required by the said Board, or the Mayor, or Commissioner of Finance and Revenue. Said Treasurer shall also keep a separate account of each fund, and shall credit each account with the funds received therefor, and charge each account with the amount legally paid out therefrom; and no money shall be paid out of any one fund for any object or purpose other than that for which the fund was created. The Town Clerk shall issue no license until there is filed with him a receipt from the Town Treasurer showing that the full amount of said license has been paid. The Town Treasurer shall perform such other duties as may be required of him by the Board of Councilmen. He shall receive a salary of not less than two hundred dollars (\$200.00) a year.

Section 6. Reports of Treasurer. The Treasurer shall prepare, furnish and publish such reports from time to time as the Board of Councilmen may require.

Section 7. Duty of Tax Collector. The Board of Councilmen shall appoint a proper person to collect the taxes annually levied, and the person so appointed shall give bond and security to the Board of Councilmen for the faithful collection and payment of the same to the Treasurer of the town.

"CHAPTER VII. BOARD OF PUBLIC WORKS

Section 1. Board of Public Works. There shall be a Board, consisting of five taxpayers and qualified voters of the said town, elected by the town at large, no member of which shall be a member of the Board of Councilmen, which Board shall be known as the Board of Public Works.

Section 2. Chairman and Secretary. The said Board shall elect one of their number Chairman and another as Secretary.

Section 3. Quorum. Three members shall constitute a quorum for the transaction of business.

Section 4. Vacancies. In case of vacancy, caused by resignation, death or other cause, the Board of Councilmen shall appoint some other suitable person to fill the vacancy.

Section 5. Powers and Duty of Board. The said Board shall have the exclusive general management and control of the town waterworks, sewer system and electric lighting plant; and the affairs of the said plant shall be separated entirely from those of the other town departments. Said Board shall have power to employ such superintendents, foreman, agents, and employees and laborers as it may deem necessary in the care, management and maintenance of the said waterworks, sanitary sewer system and electric lighting plant, and shall fix their compensation. Said Board may discharge or remove any of such superintendents, foreman, agents, or other employees at any time. The said Board shall prescribe all the duties of those employed by it by virtue of authority hereof, and provide for collection of all accounts and debts owing to the said plant. The said Board shall have no power to expend any money or incur any debt for any purpose, by contract or otherwise, beyond the appropriation made by the Board of Councilmen for that purpose. It shall be the duty of the Board to meet at least once a month, for the transaction of all business of this department. The said Board shall have power and authority to enforce beyond the town limits such regulations as may be

necessary for the care, protection, preservation and management of the waterworks, sanitary sewer system and electric lighting plant, in the same manner and to the same extent as in the town.

"CHAPTER VIII. GENERAL REGULATIONS

Section 1. Oath of Office. Before entering upon the duties of their respective offices, each of the officers whose appointment is provided for under this Charter shall be qualified by taking the following oath before some Justice of the Peace of Chowan County or other officer authorized to administer oath within five days after their election, to wit: 'I, A. B., do solemnly swear (or affirm) that I will faithfully discharge the duties of the office of _____ of the Town of Edenton according to law, to the best of my knowledge and ability, so help me God.'

Section 2. Officers to Exhibit Books. The Mayor shall have the power to require any officer of the town to exhibit his accounts or other papers, and to make reports to the said Board, in writing, touching any subject or matter pertaining to said officers, whenever he may deem it necessary.

Section 3. Residence Requirement. No person shall be eligible to any appointive office unless he shall be a bona fide resident of the town prior to his appointment, except that the town may hire nonresident expert employees when deemed necessary by the Board of Councilmen.

Section 4. Removal of Officers. The Board of Councilmen shall have power to remove any elective or appointive officer for misfeasance, neglect or malfeasance in office, upon charges preferred, after due notice, in writing and opportunity to be heard in their defense. When such charges are sustained, any such officer shall be removed by resolution of the Board of Councilmen, passed by a vote of at least four of the members of said Board, declaring that the charges preferred have been proven and that such office is vacant, and may by ordinance prescribe, limit or change the compensation of all appointive officers and employees.

Section 5. Vacancies; Resignation. In case of the disability or any vacancy occurring, by death or removal by the Board of Councilmen, of any officer, the said Board may by a majority vote thereof appoint some suitable person to fill the unexpired term. The resignation of any town officer, whether elected or appointed, shall be made in writing to the Board of Councilmen for their action thereupon. If any officer shall remove from the territorial limits of said town, such removal shall, ipso facto, vacate his office. The Town Clerk shall enter every appointment to office and date thereof, on the journal.

"CHAPTER IX. FINANCIAL

Section 1. Taxes, General. For the purpose of raising revenue for defraying expenses incident to the operation of the town, the Board of Councilmen may annually levy and collect any and all taxes, at the rate or rates and in the manner now or hereafter prescribed by law.

Section 2. Fiscal Procedures. All elective and appointive officials having responsibilities pertaining to fiscal matters shall be governed by the pertinent provisions of the General Statutes of North Carolina, including, without limiting, and for purposes of illustration, the Municipal Finance Act, the Municipal Fiscal Control Act, the

Machinery Act, the Municipal Capital Reserve Act, the Revenue Bond Act, and any other such pertinent laws now or hereafter enacted.

Section 3. Parking Meter Proceeds. Net proceeds derived from the operation of parking meters shall be applied first to the purposes of limitation, regulation, and control of vehicular traffic parking, and to the expense incurred in the administration and enforcement of such control and regulations, and any surplus remaining after such application of proceeds from said parking meters shall be used exclusively in defraying expenses incurred by the town for the purpose of general law enforcement.

Section 4. Enforcement of Privilege License Taxes, In addition to any other civil or criminal remedy available to enforce the collection of privilege license taxes, the Tax Collector may employ the remedies of levy upon personal property, attachment and garnishment, in the manner of and subject to the limitations provided in G. S. 105-385(c) through G. S. 105-385 (g).

"CHAPTER X. POLICE AND COURTS

Section 1. Mayor's Court. The Mayor of the Town of Edenton shall continue to be constituted an inferior court as provided by the General Statutes of North Carolina and as such court, shall have the powers, jurisdiction and authority granted by the pertinent General Statutes.

Section 2. Mayor Ex Officio Commissioner of Police. The Mayor shall be ex officio, the Commissioner of the Police Department, and shall have under his special charge and be responsible for the enforcement of all town ordinances and police regulations of the Town of Edenton, and shall have general supervision over the Police Department.

Section 3. Special Policemen. The Mayor shall be a conservator of the peace throughout the town, and at all times shall have power to appoint such number of special policemen as he may in cases of emergency deem necessary to preserve the peace of the town, and to dismiss the same at pleasure; provided, such policemen shall not serve longer than the next meeting of the Board of Councilmen following their appointment unless confirmed by said Board.

Section 4. Police Jurisdiction. All police and law enforcement officers of the Town of Edenton are hereby authorized to exercise the powers of arrest, to preserve the peace, and to serve criminal process at any point within two thousand (2,000) yards of the corporate boundary lines of the Town of Edenton, and at such other places as may be specifically authorized by Legislative Act.

Section 5. Warrant Officers. It shall be lawful for the Town Council of the Town of Edenton to appoint two (2) warrant officers that are members of the Edenton Police Force. The warrant officers shall have the authority to issue warrants returnable before a Justice of the Peace, the Mayor, or Recorder's Court. It shall not be lawful for any warrant officer to serve any paper issued by him.

"CHAPTER XI. FIRE PROTECTION AND PREVENTION

Section 1. Fire Department. The Board of Councilmen may provide for the establishment, maintenance, and operation of a Fire Department under such rules and regulations as the Council may approve.

Section 2. Fire Chief. The Board of Councilmen may appoint a Fire Chief and prescribe his duties and may approve the appointment to the Department of all members.

Section 3. Mayor Ex Officio Commissioner of Fire Department. The Mayor shall be, ex officio, the Commissioner of the Fire Department, and together with the Board of Councilmen, shall have general supervision over the Department.

Section 4. Authority to Destroy Structures. During the continuance of any fire, the officer in command shall have authority to demolish or destroy any burning structures or other structures necessary to prevent the spread of fire. The officer in command shall also have authority to remove any contents of any structure to prevent their destruction or to prevent the spread of fire. The officer in command shall suffer no liability for the execution of such orders, nor shall any person executing such orders.

"CHAPTER XII. MISCELLANEOUS

Section 1. Notice of Injury Before Suit Against Town. No action for damages against the Town of Edenton of any character whatever, to either person or property, shall be instituted unless within ninety (90) days after the happening or infliction of the injury complained of, the complainant, his executors or administrators, shall have given notice to the Board of Councilmen of such injury in writing, stating in such notice the date and place of the happening or infliction of such injury, the manner of such injury, the character of such injury and the amount of damages claimed therefor, but this shall not prevent any time of limitation prescribed by law from commencing to run at the date of the happening or infliction of such injury, or in any manner interfere with its running.

Section 2. General Laws Apply. All questions arising in the administration of the government of the Town of Edenton and not provided for in this Charter, shall be governed by the laws of the State, and nothing in this Charter shall be deemed as limiting any powers given to municipal corporations by the Constitution and Laws of North Carolina."

Sec. 2. This Act shall not affect any litigation, actions or proceedings pending or commenced at the time of its ratification. All contracts entered into by the town, or for its benefit, prior to the ratification of this Act, shall continue in full force and effect. No offenses committed and no penalties or forfeitures incurred under any Acts hereby repealed and before the time when such repeal shall take effect, shall be affected by such repeal. No law heretofore repealed shall be revived by the repeal of any Act repealing such law.

Sec. 3. Insofar as the provisions of this Act are the same in terms or in substance and effect as provisions of law in force when this Act shall take effect, relating to or affecting the Town of Edenton, the provisions of this Act are intended to be not a new enactment but a continuation of such provisions of law, and this Act shall be so construed and applied.

Sec. 4. Within the context of Sections 2 and 3 of this Act, all laws and clauses of laws relating to or affecting the Town of Edenton in force when this Act takes effect are hereby repealed and superseded to the extent that the same are inconsistent with the provisions of this Act.

Sec. 5. This Act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 17th day of June 1961.