

NORTH CAROLINA GENERAL ASSEMBLY  
1961 SESSION

CHAPTER 62  
HOUSE BILL 140

AN ACT TO PROVIDE FOR AN ELECTION IN THE TOWN OF CARY UPON THE QUESTION OF AMENDING THE CHARTER SO AS TO ESTABLISH THE COUNCIL-MANAGER FORM OF GOVERNMENT FOR THE TOWN OF CARY IN WAKE COUNTY.

The General Assembly of North Carolina do enact:

Section 1. Subject to the approval of the voters at an election to be held as hereinafter provided, the Charter of the Town of Cary, as contained in Chapter 80 of the Private Laws of 1870-71, as amended, is hereby further amended as follows:

"(a) The government of the town and the general management and control of all its affairs shall be vested in a town council, which shall be elected and shall exercise its powers in the manner hereinafter provided, except that the town manager shall have the authority hereinafter specified.

"(b) The town council shall consist of five members, who shall be elected at large by and from the qualified voters of the town for a term of four years and until their successors are elected and qualified: Provided, the three commissioners of the present governing body who were elected to office for a term of four years at the municipal election in 1959 shall continue in office for the remainder of their terms and until their successors are elected and qualified and shall be known as councilmen. At the regular municipal election in 1961, two councilmen shall be elected for a term of four years and until their successors are elected and qualified. The purpose of this Section is to provide staggered terms of office for councilmen.

"(c) All the legislative powers of the town shall be vested in the town council. The town council elected as aforesaid shall meet at the regular meeting time at the Town Hall on Thursday following the regular municipal election, and the members of the town council whose terms of office then begin shall severally make oath before the town clerk or justice of the peace to perform faithfully the duties of their respective offices. Thereupon the mayor shall be elected by the council from among its own members and shall hold office as mayor for a term of two years and until his successor is duly elected and qualified, A mayor pro tem shall be elected by the town council from among its own members and shall hold office as mayor pro tem during the pleasure of the town council. The organization of the town council shall take place as aforesaid, notwithstanding the absence, death, refusal to serve, or nonelection of one or more of the members: Provided, that at least three of the persons entitled to be members of the town council are present and make oath as aforesaid. Any member entitled to make the

aforesaid oath, who was not present at the time fixed therefor, may make oath at any time thereafter.

"(d) The town council shall fix suitable times for its regular meetings. The mayor, the mayor pro tem of the town council, or any two members thereof, may at any time call a special meeting by causing a written notice, stating the time of holding such meeting and signed by a person or persons calling the same, to be delivered in hand to each member or left at his usual dwelling place at least six hours before the time of such meeting. Meetings of the town council may also be held at any time when all the members of the council are present and consent thereto.

"(e) A majority of the members of the town council shall constitute a quorum. Its meetings shall be public, and the mayor, who shall be the official head of the town, shall, if present, preside and shall have the same power as the other members of the council to vote upon all measures coming before it, but shall have no power of veto. In the absence of the mayor, the mayor pro tem of the town council shall preside, and in the absence of both, a chairman pro tempore shall be chosen. The town clerk shall be ex officio clerk of the town council, and shall keep records of its proceedings; but in case of his temporary absence, or in case of a vacancy in the office, the town council may elect by ballot a temporary clerk, who shall be sworn to the faithful discharge of his duties and may act as clerk of the town council until a town clerk is chosen and qualified. On request of one member, the vote shall be by yeas and nays, and shall be entered upon the records. Three affirmative votes at least shall be necessary for the passage of any order, ordinance, resolution, or vote.

"(f) Vacancies on the town council shall be filled by the council for the remainder of the unexpired terms. In case of a vacancy in the office of mayor, the remaining members of the council shall choose from their own number his successor for the unexpired term.

"(g) The mayor shall receive for his services such salary as the town council shall by ordinance determine, not exceeding five hundred dollars (\$500.00) a year, and he shall receive no other compensation from the city. His salary shall not be increased or diminished during the term for which he is elected. The council may, by a vote of not less than three members, taken by call of the yeas and nays, establish a salary for its members not exceeding three hundred dollars (\$300.00) a year for each. Such salary may be reduced, but no increase therein shall be made to take effect during the year in which the increase is voted.

"(h) The town council shall appoint a town manager, who shall be the administrative head of the town government, and shall be responsible for the administration of all departments. He shall be appointed with regard to merit only, and he need not be a resident of the town when appointed. He shall hold office during the pleasure of the town council, and shall receive such compensation as it shall fix by ordinance.

"(i) The town manager shall (1) be the administrative head of the town government; (2) see that within the town the laws of the State and the ordinances, resolutions, and regulations of the council are faithfully executed; (3) attend all meetings of the council, and recommend for adoption such measures as he shall deem

expedient; (4) make reports to the council from time to time upon the affairs of the town and keep the council fully advised of the town's financial condition and its future financial needs; (5) appoint and remove all heads of departments, superintendents, and other employees of the town: Provided, the town manager shall report every such appointment and removal to the council at the next meeting thereof following any such appointment or removal.

"(j) The officers and employees of the town shall perform such duties as may be required of them by the town manager, under general regulations of the town council."

Sec. 2. The Board of Commissioners of the Town of Cary, North Carolina, shall cause a special election to be held in the Town of Cary not later than April 8, 1961, for the purpose of submitting to the qualified voters of the Town of Cary the question of adopting the amendment to the charter of said town as provided in Section 1 of this Act.

Sec. 3. Within ten days subsequent to the ratification of this Act, the Board of Commissioners of the Town of Cary shall fix a date for the special election authorized in Section 2 of this Act and shall cause notice of said election to be published at least once a week for two successive weeks prior to the date of the election in a newspaper having general circulation within the municipality, and said board of commissioners shall appoint not later than two weeks prior to said election, a registrar and two judges of election for each precinct.

Sec. 4. It shall be the duty of the Board of Commissioners of the Town of Cary to conduct the special election herein provided for in accordance with the rules and regulations applying to regular municipal elections in the Town of Cary except as otherwise provided herein.

Sec. 5. Upon all ballots used in the special election hereinabove authorized shall be printed or written the words "For Amendment Providing for Council-Manager Form of Government", and "Against Amendment Providing for Council-Manager Form of Government", with appropriate squares so that the voter may designate by a cross (X) mark his preference for which he casts his vote. If at said election a majority of the votes cast shall be "For Amendment Providing for Council-Manager Form of Government", the said amendment shall be adopted and become a part of the Charter of the Town of Cary and shall become effective May 2, 1961, the date of the regular municipal election for the Town of Cary. If at said election, a majority of the votes cast shall be "Against Amendment Providing for Council-Manager Form of Government", said amendment shall be null and void and shall have no effect upon the Charter of the Town of Cary.

Sec. 6. If at the special election hereinabove authorized, a majority of the votes cast shall be "For Amendment Providing for Council-Manager Form of Government", then in such event, Chapter 357 of the Session Laws of 1953, providing for the election and compensation of a mayor and commissioners of the Town of Cary, is repealed effective May 2, 1961. If at said election a majority of the votes shall be "Against Amendment for Council-Manager Form of Government", Chapter 357 of the Session Laws of 1953 shall remain in effect and shall continue to be a part of the Charter of the Town of Cary.

Sec. 7. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Sec. 8. This Act shall become effective upon its ratification.

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