

NORTH CAROLINA GENERAL ASSEMBLY  
1969 SESSION

CHAPTER 320  
HOUSE BILL 542

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF  
NASHVILLE, NORTH CAROLINA.

The General Assembly of North Carolina do enact:

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

"THE CHARTER OF THE TOWN OF NASHVILLE"

"ARTICLE I. INCORPORATION AND CORPORATE POWERS

"Sec. 1. The Town of Nashville shall continue to be a body politic and corporate under the name of the Town of Nashville, and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have and use a corporate seal and alter the same at pleasure; may sue and be sued; may acquire property, real or personal, within or without its boundaries for any municipal purpose, by purchase, gift, devise, lease, or condemnation, and may sell, lease, hold, manage, and control such property as its interests may require, and, except as prohibited by the Constitution of North Carolina or restricted by this Charter, the Town of Nashville shall have and may exercise all municipal powers, functions, rights, privileges, and immunities of every kind and nature whatsoever. The following shall be deemed to be a part of the powers conferred upon the Town of Nashville by this Section:

"(a) To levy, assess and collect taxes and to borrow money within the limits prescribed by general law; and to levy and collect special assessments for benefits conferred.

"(b) To furnish all local public services; to purchase, hire, construct, own, maintain, and operate or lease local public utilities, to acquire, by condemnation or otherwise, within or without the corporate limits, property necessary for any such purposes, subject to restrictions imposed by general law for the protection of other communities; and to grant local public utility franchises and regulate the exercise thereof.

"(c) To make local public improvements and to acquire, by condemnation, or otherwise, property within or without its corporate limits necessary for such improvements; and to acquire an excess over that needed for any such improvement, and to sell or lease such excess property with restrictions, in order to protect and preserve the improvement.

"(d) To issue and sell bonds on the security of any such excess property, or of any public utility owned by the Town, or of the revenues thereof, or of both, including the

case of a public utility, if deemed desirable by the Town, a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate such utility.

"(e) To organize and administer public libraries.

"(f) To adopt and enforce within its limits local police, sanitary, and other similar regulations not in conflict with general law.

"Except as otherwise provided in this Act, the Board of Commissioners shall have authority to determine by whom and in what manner the powers granted by this Section shall be exercised.

"Sec. 2. The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein or implied thereby, or appropriate to the exercise of such powers, it is intended that the Town of Nashville shall have, and may exercise, all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate, or which may be or have been granted to municipalities by act of the Legislature. All powers of the Town, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed therein, then in the manner provided by ordinance or resolution of the Board of Commissioners.

## "ARTICLE II. CORPORATE BOUNDARIES

"Sec. 3. The boundaries of the Town shall be those existing at the time of the effective date of this Charter with such alterations as made from time to time thereafter be made in the manner prescribed by law.

"Sec. 4. The General Statutes of North Carolina, as now existing and from time to time amended, shall govern the means by which the boundaries of the Town are extended or territory is annexed to the Town.

## "ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

"Sec. 5. Except as otherwise provided in this Charter, all powers of the Town shall be vested in a Board of Commissioners consisting of four members and a Mayor nominated and elected from the Town at large in the manner hereinafter provided:

"(a) The term of office of the Mayor and the Board of Commissioners shall be for two years and until their successors are elected and qualified, and shall begin on the 1st Tuesday after the 1st Monday in June next following their election. If a vacancy occurs in the office of Mayor or Commissioner, it shall be filled for the remainder of the unexpired term by a majority vote of the remaining members of the Board of Commissioners.

"(b) No person shall be eligible to file for, or be elected to the office of Mayor or Commissioner, or to serve as such, unless he is a qualified voter and resident of the Town. If any elected Mayor or Commissioner shall cease to reside within the Town or shall be convicted of a felony, he shall thereafter be disqualified from serving as Mayor or Commissioner.

"(c) The Board of Commissioners shall have the power, on the vote of three-fourths of its members, to remove the Mayor or any one of its members for misfeasance, malfeasance, or non-feasance of office, or for conviction of a misdemeanor involving moral turpitude, after a hearing of the matter before the Board of Commissioners, at which time the subject of such hearing may be present and represented by counsel.

Notice of such hearing shall be served on the subjects thereof at least two weeks in advance of the hearing in person, if possible, and if not, by publication.

"(d) The Mayor and each member of the Board of Commissioners shall receive a salary, the amount of which shall be prescribed by ordinance. Such salary may be increased or reduced, but no such change shall be made to take effect as to the Mayor or any Commissioner during the respective term of office which he is serving at the time the change is voted.

"(e) If a Commissioner is disabled and unable to discharge the duties of his office, the Commissioners may choose some qualified person as his successor during his disability. Persons so elected shall have all authority and powers given by and subject to all limitations provided under this Charter, or by law, to regularly elected Commissioners.

"Sec. 6. Organization, powers, and procedures of the Board of Commissioners: (a) The organizational meeting of each incoming Board of Commissioners and the Mayor shall be held on the 1st Tuesday after the 1st Monday in June following each annual election, at 8:00 p.m. in the Municipal Building. Before entering upon the duties of their respective offices, the Mayor-elect and the Commissioners-elect shall severally take oath before a Judge of the Superior Court, Court of Appeals, Supreme Court, District Court Judge, Magistrate, or the Clerk of the Superior Court of Nash County to perform faithfully the duties of their respective offices. In the event the Mayor-elect or any Commissioner-elect cannot be present at the organizational meeting, he may take the oath of office at any time thereafter.

"(b) The Board of Commissioners shall fix suitable times for its regular meetings, which shall be as often as once monthly. The Board may change the time of such regular meetings, and may provide for other meetings, as may be deemed necessary. Special meetings of the Board of Commissioners may be called by the Mayor when deemed necessary, and shall be called by the Town Clerk upon the written request of two or more Commissioners. All Commissioners shall be notified in writing, or otherwise, of all special meetings; and any such notice shall state the subjects to be considered at the special meeting; and no other subjects shall be there considered unless consented to by all of the Board of Commissioners and Mayor. Minutes shall be kept of the proceedings of all regular and special meetings. Any business may be transacted at a special meeting that might be transacted at a regular meeting, provided the notice states the subjects to be considered at the special meeting or unless consented to as set out above. All meetings of the Board of Commissioners shall be open to the public; and the rules of the Board of Commissioners shall provide that the citizens of the Town shall have a reasonable opportunity to be heard at any such meetings in regard to any matter considered thereat.

"(c) Except as otherwise specifically provided by this Charter, the Board of Commissioners shall have the authority to adopt rules of procedure and generally regulate the manner and method of the exercise of its power. All meetings shall be held within the Town of Nashville except in the case of an emergency. In the event the Board deems it desirable to hold a joint meeting with the governing body of another municipality or political sub-division of the State of North Carolina, it may, as its

election, meet with the other governing body at a designated place within Nash County or within the area subject to the jurisdiction of the other governing body.

"(d) In addition to the other powers hereby conferred upon it, the Board of Commissioners may adopt and provide for the execution of such ordinances, rules and regulations not inconsistent with the law, as may be necessary or appropriate for the preservation and promotion of the health, safety, comfort, culture, economy, convenience, good order, morals, better government, and general welfare of the Town and its inhabitants.

"Sec. 7. Meetings, Quorums, Votes, Attendance of Commissioners: (a) A majority of the members elected to the Board of Commissioners shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members by ordering them to be taken into custody.

"(b) The affirmative vote of a majority of the members elected to the Board of Commissioners shall be necessary to adopt any ordinances, resolutions, order or vote; except that a vote to adjourn, or regarding the attendance of absent members, may be adopted by a majority of the members present. No member shall be excused from voting except on matters involving the consideration of his own official conduct, or when his financial interests are involved.

"Sec. 8. Ordinances and Resolutions: (a) Ordinances and resolutions shall be introduced in the Board of Commissioners only in written or printed form. The adoption, amendment, or repeal of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter.

"(b) The "yeas" and "nays" shall be taken upon all ordinances and resolutions and entered upon the Minutes of the Board. The enacting clause of all ordinances shall be: "Be it ordained by the Board of Commissioners of the Town of Nashville." All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein, and except as otherwise described in this Charter.

"(c) Upon its final passage, such ordinances or resolution shall be authenticated by the Mayor and the Town Clerk, and shall be recorded in a book kept for that purpose.

"Sec. 9. The Board of Commissioners shall be the judge of the election and qualifications of its members and the Mayor, and in such cases shall have the power to subpoena witnesses and compel the production of all pertinent books, records, and papers; but the decision of the Board in any such case shall be subject to review by the Courts.

"Sec. 10. Mayor and Mayor Pro Tem: (a) The Mayor shall preside at all meetings of the Board of Commissioners and shall have a casting vote in case of an equal division. He shall be recognized as the official head of the Town for all ceremonial purposes, and by the Courts for the purpose of serving civil process. He shall have power to administer oaths. He shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him by the general laws of North Carolina, by this Charter, and the ordinances of the Town. In time of public danger or emergency, the Mayor shall, if so authorized and directed by vote of the Board, take command of the police, maintain order, and enforce the law. In pursuance of resolution by the Town Board, he shall, in the name of the Town, execute in its behalf all deeds and contracts.

"(b) At its first meeting in the month of June following a regular municipal election, the Board of Commissioners shall choose one of its members as Vice-Chairman, who shall act as Mayor Pro Tem. In case of the absence or disability of the Mayor, the duties of his office shall devolve upon the Mayor Pro Tem; and such Mayor Pro Tem shall, for the time, be clothed with every power conferred by law upon the Mayor.

#### "ARTICLE IV. MUNICIPAL ELECTIONS

"Sec. 11. The regular election for the choice of Mayor and members of the Board of Commissioners shall be held on Tuesday following the 1st Monday in May in odd numbered years. The Board of Commissioners may, by resolution, order a special election, fix the time for holding the same, and provide all means for holding such special election.

"Sec. 12. All elections shall be conducted in accordance with the general State laws relating to municipal elections (including, but not limited to Article 3 of Chapter 160 of the General Statutes, Sections 29-51.1), except as otherwise provided herein.

"Sec. 13. The Board of Commissioners is authorized to enter into an agreement with the Board of Elections and Board of Commissioners of Nash County for the purpose of using the registration books and records of Nash County in regular or special elections of the Town, in accordance with Section 71 of Chapter 163 of the General Statutes of North Carolina. In the event such an agreement is entered into, the registration of voters in the Town shall be governed by the law applicable to the registration of voters in Nash County; and a Nash County election official shall be appointed by the Nash County Board of Elections to serve as Registrar for the Town elections.

"Sec. 14. Each qualified person who would offer himself as a candidate for the office of Mayor or Commissioner shall file with the Town Clerk a written statement giving notice of his candidacy. Such notice shall be filed not earlier than sixty days nor later than ten days prior to the election at which he offers his candidacy; and shall be accompanied by payment of a filing fee of five dollars (\$5.00). The Town Clerk shall take and preserve the form filed by each candidate. No filing form shall be accepted unless signed by the candidate. Any candidate may withdraw his nomination not later than the last day for filing by filing a notice of withdrawal with the Town Clerk.

"Sec. 15. All members of the Board of Commissioners and the Mayor shall be elected at large. Every voter shall be entitled to vote for one candidate for Mayor and for as many candidates as there are members to be elected for the Board of Commissioners. All candidates up to the number to be elected who receive the largest number of votes shall be declared elected.

"Sec. 16. The preparation of the ballots and the procedures for voting shall be governed by Article 13 of Chapter 163 of the General Statutes of North Carolina.

#### "ARTICLE V. ADMINISTRATIVE OFFICERS AND EMPLOYEES; TOWN ATTORNEY

"Sec. 17. The Board of Commissioners may appoint a Town Clerk, a treasurer, a tax collector, a town attorney, a town accountant, a chief of police, a chief of the Fire Department, and such other officers and employees as may be necessary, none of whom need be a resident of the Town at the time of appointment or while serving in such

capacity. Provided, that the Board of Commissioners may appoint one person to fill any two or more such positions. Such employees or officers shall serve at the pleasure of the Board, and shall perform such duties as may be prescribed by the Board who shall fix all compensation, prescribe bonds and require such oaths as they may deem necessary.

"Sec. 18. The Board of Commissioners shall choose a Town Clerk, who shall keep the records and Minutes of the Town Board, preserve all books, records, documents, and other articles committed to his use or custody during his term of office and surrender the same to his successor in office. He shall be the custodian of the corporate seal of said Town. He shall attest the execution of all deeds or other contracts executed by the Mayor on behalf of the Town, and affix its corporate seal to all deeds and such contracts and obligations as it shall be deemed necessary to so attest, and shall perform such other duties as may be prescribed by the Charter, by the Board, or by law.

"Sec. 19. The Treasurer shall have custody of and shall disburse all moneys belonging to the Town Government, subject to the provisions of this Charter and ordinances enacted thereunder. He shall have custody of all investments and invested funds of the Town, or in possession of the Town in a fiduciary capacity, and shall keep a record of such investments. All notes, bonds, or other evidences of indebtedness of the Town shall bear his signature, which when authorized by him in writing, may also be facsimile signatures. He may perform such other duties as may be prescribed by this Charter, by the Board, or by law.

"Sec. 20. The Tax Collector shall collect all taxes, licenses, fees, and other moneys belonging to the Town Government, subject to the provisions of this Charter and ordinances enacted thereunder. He shall diligently comply with and enforce the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities. It shall be the duty of the tax collector to deposit daily in the Town depository all moneys belonging to the Town. He shall perform such other duties as may be prescribed by this Charter, by the Board of Commissioners, or by law.

"Sec. 21. Town Attorney: (a) The Board of Commissioners shall appoint an attorney or firm of attorneys who shall be duly licensed to practice law in the State of North Carolina.

"(b) He shall serve as legal counsel to the Town and all departments and offices thereof in matters relating to their official duties and powers. He shall represent the Town in all litigation and controversies, and before all governmental boards and commissions as directed by the Board of Commissioners. He shall perform such other duties of a legal nature pertaining to the Town as may be directed by the Board of Commissioners, or as may be imposed by law upon the chief legal officers of municipalities.

"(c) The Board of Commissioners may employ such other attorneys to perform such services as it shall from time to time deem advisable.

"Sec. 22. The Town Accountant, if any, shall perform the duties of the accountant as required by the Municipal Fiscal Control Act as set forth in Article 33, Chapter 160, of the General Statutes of North Carolina, or otherwise provided by law.

"Sec. 23. Police Department: (a) The Chief of Police shall have supervision and control of the police force of the Town.

"(b) The Chief of Police and each member of the police force shall have, for the purpose of enforcing State laws, Town ordinances and regulations, or preserving the peace of the Town, and of suppressing disturbances and apprehending offenders, the powers of peace officers vested in sheriffs and constables. Such power may be exercised within the corporate limits of the Town and two miles beyond, and upon Town- owned real property wherever located.

"(c) The Chief of Police and other police officers of the Town shall have power, and it shall be their duty, to suppress all breaches of the public peace, and all disturbances of the quiet and good order of the Town; and they may, with or without warrant, arrest anywhere within the corporate limits of the Town, or within two miles thereof, any person charged with a violation of any ordinance of the Town, or with any other offense whatsoever against the public peace, and the quiet and good order of the community.

"(d) The Chief of Police and each member of the police force shall have the power to execute within the corporate limits of the Town and two miles beyond any writ, precept, or process, either civil or criminal, which shall be directed to them.

"(e) In addition to the foregoing, the Chief of Police and other police officers shall possess such other powers in making arrests, and in conserving the public peace as are usually possessed by sheriffs and constables; they shall perform such other duties and possess other powers, rights, and authority as are prescribed by law; and they shall perform such other duties as may from time to time be given them by the Mayor or the Board of Commissioners, not inconsistent with the Constitution and laws of the State of North Carolina and the provisions of this Charter.

"Sec. 24. Fire Department: (a) The Chief of the Fire Department shall have supervision and control of the Fire Department of the Town.

"(b) The Chief of the Fire Department and, in his absence, his assistants, are empowered during the progress of a fire to arrest any person interfering either with fire apparatus or the firemen while in the discharge of his duty.

"(c) The Fire Chief, and in his absence, his assistants, may order the blowing up, tearing down, or other destruction of any building which it is deemed necessary to stop the progress of a fire. Neither the Fire Chief nor his assistants, the Town, the Mayor, nor the Board of Commissioners shall be held liable, civilly or criminally, for the giving of such orders or for damages to property ordered destroyed or persons harmed.

"(d) The Chief of the Fire Department and other firemen shall perform such other duties as may be prescribed by law or a Town ordinance, or that may from time to time be prescribed by the Mayor.

#### "ARTICLE VI. CONTRACTS AND FINANCE

"Sec. 25. Contracts for construction, improvements, or repair work and purchases of apparatus, supplies, materials, and equipment shall be made only in accordance with the General Statutes of North Carolina (including, but not limited to, Article 8 of Chapter 143 of the General Statutes, as the same may hereafter be amended).

"Sec. 26. All contracts entered into by the Town, or for its benefit, prior to the taking effect of this Charter, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws, or charter provisions, existing at the

time this Charter takes effect, may be carried to completion in accordance with the provisions of such existing laws and charter provisions.

"Sec. 27. All moneys received by the Town for or in connection with the business of the Town Government shall be paid promptly into the Town depository. Such institution shall be designated by the Board of Commissioners in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance adopted pursuant to the laws of the State of North Carolina (including, but not limited to, Article 33 of Chapter 160 and Section 79 of Chapter 147 of the General Statutes of North Carolina, as may be hereafter amended). All interest on moneys belonging to the Town shall accrue to the benefit of the Town Government. All moneys belonging to the Town Government shall be disbursed only on vouchers signed by the Treasurer and countersigned by the Mayor or one of the Commissioners.

"Sec. 28. As soon as practicable after each fiscal year closes, an independent audit shall be made of all accounts of the Town Government by a certified public accountant or by a qualified public accountant registered pursuant to Chapter 93 of the General Statutes of North Carolina, who shall be selected by the Board of Commissioners, and who shall have no personal interests directly or indirectly in the affairs of the Town or of any of its officers.

#### "ARTICLE VII. CLAIMS AGAINST THE TOWN

"Sec. 29. No suit or action shall be instituted or maintained against the Town upon any claim or demand whatever of any kind or character unless the claimant shall, within ninety (90) days after the date of the accrual of the cause of action, have presented his claim or demand to the Board of Commissioners in writing, and the Board of Commissioners shall have declined to pay or honor the same as presented, or for ninety (90) days after presentation shall not have taken action with respect thereto. Further, no suit or action shall be instituted or maintained against the Town upon any such claim or demand unless suit is instituted within twelve (12) months from the date of the accrual of the cause of action, the same being thereafter forever barred. Nothing contained herein shall be construed to prevent any other statute of limitations from commencing to run at the time when a claim accrued or demand arose, or in any manner to interfere with its running.

"Sec. 30. In the absence of any contracts between the Town and property owners in relation to the lands of such property owners used or occupied by the Town for the purposes of streets, sidewalks, alleys, or other public works, it shall be conclusively presumed that said land has been granted to the Town by the owners; and the Town shall have good right and title thereto and shall have, hold, and enjoy the same. Unless the owner or owners of said lands, or those claiming under them, shall make claim or demand in writing to the Board of Commissioners within two years following the date when such land was taken, said owner shall be forever barred from recovering such land or having any compensation therefor.

"Sec. 31. Public improvements for which legislative steps have been taken or other actions or proceedings which have been begun under laws or charter provisions existing at the time this Charter takes effect may be carried to completion in accordance with the provisions of such existing laws and charter provisions.



"Sec. 32. The Mayor and members of the Town Board of Aldermen holding office at the time of ratification of this Act shall continue to hold office until their successors are elected and qualified.

"Sec. 33. All ordinances and resolutions heretofore adopted by the governing body of the Town of Nashville and which have not heretofore been repealed, are hereby ratified and continued in full force and effect until altered or repealed by the Board of Commissioners of said Town."

**Sec. 2.** All previous charters and charter amendments for the Town of Nashville are hereby repealed.

**Sec. 3.** All laws and clauses of laws in conflict with this Act are hereby repealed.

**Sec. 4.** This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1969.