

NORTH CAROLINA GENERAL ASSEMBLY  
1969 SESSION

CHAPTER 738  
SENATE BILL 405

AN ACT TO INCORPORATE THE TOWN OF FLETCHER IN HENDERSON  
COUNTY.

The General Assembly of North Carolina do enact:

**Section 1.** The following provisions of law shall constitute the Charter of the Town of Fletcher in Henderson County:

"THE CHARTER OF THE TOWN OF FLETCHER

"ARTICLE I. INCORPORATION AND CORPORATE POWERS

"Section 1.1. Incorporation and General Powers. The inhabitants of the area described in Section 2.1 of this Charter shall be and constitute a body politic and corporate under the name of the 'Town of Fletcher', and shall be vested with all property which may be acquired by the Town, and all rights herein delegated to it; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract; may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. Exercise of Powers. All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Board of Commissioners and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. Enumerated Powers Not Exclusive. 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 hereby, or those appropriate to the exercise of such powers, the Town of Fletcher shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

"ARTICLE II. CORPORATE BOUNDARIES

"Sec. 2.1. Corporate Boundaries. The corporate boundaries of the Town of Fletcher shall be as follows until changed in accordance with law:

BEGINNING at the point where U. S. Highway No. 25 intersects with the Henderson-Buncombe Counties line; and runs thence westwardly to the center of

Interstate Highway No. 26; thence southwardly along and with the center of said Interstate Highway No. 26 to the center of Cane Creek; thence northeastwardly along and with the center of Cane Creek to the Henderson-Buncombe Counties line; thence westwardly along and with said Henderson- Buncombe Counties line to the place of BEGINNING.

### "ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

"Sec. 3.1. Temporary Officers. Until the initial election provided for by Section 4.1 of this Charter, Robert Parrish is hereby appointed Mayor, and Charles Jones, Overton Price, William Bagwell, John Bagwell, and Kenneth Green are hereby appointed Commissioners of the Town of Fletcher, and they shall possess and may exercise the powers granted to the Mayor and Board of Commissioners until their successors are elected and qualify pursuant to this Charter.

"Sec. 3.2. Mayor and Mayor Pro Tempore. The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. When there is an equal division upon any question, or in the appointment of officers, by the Board, the Mayor shall determine the matter by his vote, and shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Commissioners shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 3.3. Composition of Board of Commissioners. The Board of Commissioners shall consist of five (5) members to be elected by and from the qualified voters of the Town voting at large in the manner provided by Article IV.

"Sec. 3.4. Terms; Qualifications; Vacancies.

"(a) Except for the initial terms of office hereinbefore specified, the Mayor and the members of the Board of Commissioners shall serve for terms of four (4) years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualify.

"(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the Board of Commissioners, or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

"(c) If any elected Mayor or Commissioner shall refuse to qualify, or if there shall be any vacancy in the office of Mayor or Commissioner after election and qualification, the remaining members of the Board shall by majority vote appoint some qualified person to serve for the unexpired term. Any Mayor or Commissioner so appointed shall have the same authority and powers as if regularly elected.

"Sec. 3.5. Compensation of Mayor and Commissioners. The Mayor shall receive for his services such salary as the Board of Commissioners shall determine, but no reduction in his salary shall be made to take effect during the term in which it is voted.

The Board of Commissioners may establish and from time to time change the salaries of its members.

"Sec. 3.6. Organization of Board; Oaths of Office. The Board of Commissioners shall meet and organize for the transaction of business at a time established by ordinance, following each biennial election and prior to July 1. Before entering upon their offices, the Mayor and each Commissioner shall take, subscribe, and have entered upon the minutes of the Board the following oath of office: 'I \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith and that I will faithfully perform the duties of the office of \_\_\_\_\_, on which I am about to enter, according to my best skill and ability; so help me, God.'

"Sec. 3.7. Meetings of Board.

"(a) The Board of Commissioners shall fix suitable times for its regular meetings, which shall be as often as once monthly. Special meetings may be held on the call of the Mayor or a majority of the Commissioners, and those not joining in the call shall be notified in writing. Any business may be transacted at a special meeting that might be transacted at a regular meeting.

"(b) All meetings of the Board of Commissioners shall be open to the public. The Board shall not by executive session or otherwise formally consider or vote upon any question in private session.

"Sec. 3.8. Quorum; Votes.

"(a) A majority of the members elected to the Board of Commissioners shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

"(b) The affirmative vote of a majority of the members of the Board of Commissioners shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of the members present and voting.

"Sec. 3.9. Ordinances and Resolutions. The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes 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 Fletcher.' All ordinances and resolutions shall take effect upon adoption unless otherwise, provided therein, or unless some provision of the General Statutes provides otherwise.

#### "ARTICLE IV. ELECTION PROCEDURE

"Sec. 4.1. Regular Municipal Elections. Regular municipal elections shall be held on the Tuesday after the first Monday in May of each odd-numbered year, beginning in 1971. In the regular election in 1971 and biennially thereafter, there shall be elected a Mayor for a term of two years. In the regular election in 1971, there shall be elected five Commissioners, and the three candidates for Commissioner who receive the largest numbers of votes shall be elected for terms of four years, and the two candidates for

Commissioner who receive the next largest numbers of votes shall be elected for terms of two years. In the regular election in 1973 and quadrennially thereafter, there shall be elected two Commissioners to serve for terms of four years. In the regular election in 1975 and quadrennially thereafter, there shall be elected three Commissioners to serve for terms of four years.

"Sec. 4.2. Filing of Candidates. Each qualified person who would offer himself as a candidate for the office of Mayor or Commissioner shall file with the Town Clerk a statement giving notice of his candidacy. Such notice shall be filed not earlier than the eighth Friday nor later than five o'clock p.m. on the third Friday prior to the election at which he offers his candidacy, shall be accompanied by payment of a filing fee of five dollars (\$5.00), shall be signed in the presence of the Town Clerk, and shall be substantially in the following form: 'I, \_\_\_\_\_, do hereby give notice that I am a candidate for election to the office of \_\_\_\_\_, Town of Fletcher, to be voted on at the election to be held on \_\_\_\_\_, and I hereby request that my name be placed on the official ballot for such office. I certify that I am a resident and qualified voter of the Town of Fletcher, residing at \_\_\_\_\_.

\_\_\_\_\_ (Signature) \_\_\_\_\_

\_\_\_\_\_ (Date) \_\_\_\_\_

Sec. 4.3. Regulation of Elections. All municipal elections shall be conducted in accordance with Article 3, Chapter 160, of the General Statutes of North Carolina, except as otherwise herein provided.

#### "ARTICLE V. TOWN ATTORNEY

"Sec. 5.1. Appointment; Qualifications; Term; Compensation. The Board of Commissioners shall appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Board of Commissioners and shall receive such compensation as the Board shall determine.

"Sec. 5.2. Duties of Town Attorney. It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Board of Commissioners, and other Town officials with respect to the affairs of the Town; to draw all legal documents relating to the affairs of the Town; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board of Commissioners; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

#### "ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES

"Sec. 6.1. Town Clerk. The Board of Commissioners shall appoint a Town Clerk to keep a journal of the proceedings of the Board and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board may direct.

"Sec. 6.2. Town Tax Collector. The Board of Commissioners may appoint a Tax Collector to collect all taxes, licenses, fees and other monies belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, and he shall

diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

"Sec. 6.3. Town Accountant. The Board of Commissioners may appoint a Town Accountant to perform the duties of the Accountant as required by the Municipal Fiscal Control Act.

"Sec. 6.4. Consolidation of Functions. The Board of Commissioners may, in its discretion, consolidate the functions of any two or more of the positions of Town Clerk, Town Tax Collector, and Town Accountant, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions. The Board may also, in its discretion, designate a single employee to perform all or any part of the functions of any of the named positions, in lieu of appointing several persons to perform the same.

"Sec. 6.5. Other Employees. The Board of Commissioners may create and fill by appointment such other positions as it deems advisable to insure the efficient administration of the Town's affairs, and may, in its discretion, appoint a person to supervise all Town departments and may delegate to such person the power of appointment and removal of department heads and employees, other than the Town Attorney.

#### "ARTICLE VII. FINANCE

"Sec. 7.1. Custody of Town Money. All monies 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 the General Statutes of North Carolina. All interest on monies belonging to the Town shall accrue to the benefit of the Town. All monies belonging to the Town shall be disbursed only in accordance with the provisions of the Municipal Fiscal Control Act.

"Sec. 7.2. Issuance of Bonds. The Town may issue bonds for the purposes and in the manner prescribed by the General Statutes of North Carolina relating to the issuance of bonds by municipalities.

"Sec. 7.3. Purchases and Contracts. Purchases of apparatus, supplies, materials, and equipment, and contracts for construction or repair work, shall be made in accordance with the General Statutes of North Carolina relating thereto.

"Sec. 7.4. Independent Audit. As soon as practicable after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town government by a certified public accountant or a qualified public accountant registered under Chapter 93 of the General Statutes of North Carolina, who shall have no personal interest directly or indirectly in the affairs of the Town or of any of its officers. The Board of Commissioners shall select the public accountant, and the results of such audit shall be made available for inspection by any interested citizen of the Town, and may be published if so ordered by the Board of Commissioners.

"Sec. 7.5. Taxation. The territory within the corporate limits, and its citizens and property, shall be subject to municipal taxes levied by the Town for the fiscal year 1969-1970 and subsequent years. The Town may obtain from Henderson County, and

the Henderson County Tax Supervisor shall provide upon request, a record of property within the corporate limits which was listed for taxation as of January 1, 1969.

**"ARTICLE VIII. CLAIMS AGAINST THE TOWN**

"Sec. 8.1. Tort Claims. All claims or demands against the Town arising in tort shall be presented to the Board of Commissioners in writing, signed by the claimant or his attorney or agent, within ninety (90) days after such claim or demand is due or the cause of action accrues. No suit or action shall be brought on such a claim or demand within thirty (30) days or after the expiration of twelve (12) months from the time such claim or demand is presented. Unless the said claim or demand is so presented within ninety (90) days, and unless suit is brought within twelve (12) months thereafter, any action thereon shall be barred.

**"ARTICLE IX. POLICE**

"Sec. 9.1. Jurisdiction Extended. (a) The jurisdiction of the police force is hereby extended to include all territory outside and within one mile of the corporate limits, and all members of the police force shall have, and may with approval of the Board of Commissioners exercise, within such territory all rights, power and authority as they have within the corporate limits."

**Sec. 2.** If any provision of this Act or the application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

**Sec. 3.** All laws and clauses of laws in conflict with the provisions of 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 9th day of June, 1969.