

NORTH CAROLINA GENERAL ASSEMBLY  
1973 SESSION

CHAPTER 273  
HOUSE BILL 748

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF  
WAKE FOREST AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

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

"THE CHARTER OF THE TOWN OF WAKE FOREST

"ARTICLE I. INCORPORATION AND CORPORATE POWERS

"Section 1.1. Incorporation and General Powers. The Town of Wake Forest shall continue to be a body politic and corporate under the name of the 'Town of Wake Forest', and shall continue to be vested with all property and rights which now belong to the Town; 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 such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed to, dedicated to, 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 Wake Forest 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. Existing Corporate Boundaries. (a) The corporate limits of the Town of Wake Forest shall be those existing at the time of ratification of this Charter and as the same may be altered from time to time in accordance with law. The Board of Commissioners shall cause to be prepared a map to be designated 'Map of the Town of Wake Forest Corporate Limits' showing the corporate limits as the same may exist as of

the effective date of this Charter. The Board of Commissioners shall also cause to be prepared a written description of the corporate limits as shown on said map to be designated 'Description of Wake Forest Corporate Limits.' Said map and description shall be retained permanently in the office of the Town Clerk as the official map and a description of the corporate limits of the Town. Immediately upon alteration of the corporate limits made pursuant to law from time to time the Board of Commissioners shall cause to be made the appropriate changes and/or additions to said official map description. Photographic types or other copies of said official map or description certified as by law provided for the certification of ordinances shall be admitted in evidence in all courts and shall have the same force and other effect as would the official map or description.

(b) The Town Board shall require the redrawing of the official map and the rewriting of the official description as may from time to time be required. A redrawn map and a rewritten description shall supersede for all purposes the earlier maps and descriptions which are respectively replaced.

"Sec. 2.2. Extension of Corporate Boundaries. All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

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

"Sec. 3.1. Composition of Board of Commissioners. The Board of Commissioners shall consist of five members to be elected by the qualified voters of the Town voting at large in the manner provided in Article IV of 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 of this Charter. 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 on a question, the Mayor shall resolve the deadlock by his vote, but he 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. Terms; Qualifications; Vacancies. (a) The members of the Board of Commissioners shall serve for terms of four years, and the Mayor shall serve for a term of four 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 qualified.

(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, and is twenty-one years of age or older.

(c) In the event a vacancy occurs in the office of Mayor or Commissioner, the Board shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

"Sec. 3.4. Organization of Board of Commissioners; Oaths of Office. The Board of Commissioners shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Board following each biennial election. Before entering upon their offices, the Mayor and each Commissioner shall take, subscribe to, 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 maintain the Constitution and laws of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as \_\_\_\_\_, so help me, God.'

"Sec. 3.5. Meetings of Board. The Board of Commissioners shall fix a suitable time and place for its regular meetings, which shall be held at least as often as once monthly. Special meetings may be held according to the procedures and requirements designated by the general laws of North Carolina pertaining to special meetings of City Councils.

"Sec. 3.6. 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 attendance of the absent members in such manner as may be prescribed by ordinance.

(b) The affirmative vote of a majority of the members elected to the Board of Commissioners not excused from voting on the question in issue 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 those present and voting.

"Sec. 3.7. 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 Wake Forest'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

#### "ARTICLE IV. ELECTIONS

"Sec. 4.1. Regular Municipal Elections. Regular municipal elections shall be held biennially in odd-numbered years on the day set by general law for municipal elections. In the 1975 regular municipal election and quadrennially thereafter there shall be elected a Mayor for a term of four years. In the 1975 regular municipal election and quadrennially thereafter, three commissioners shall be elected to serve terms of four years each. In the 1973 regular municipal election and quadrennially thereafter, two commissioners shall be elected to serve terms of four years each.

"Sec. 4.2. Regulation of Elections. All Town elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections.

#### "ARTICLE V. TOWN ADMINISTRATOR

"Sec. 5.1. Appointment; Compensation. The Town Board of Commissioners shall appoint an officer whose title shall be Town Administrator and who shall be the head of the administrative branch of the Town government. The Town Administrator shall be

chosen by the Board solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or knowledge of, accepted practice in respect to the duties of his office as hereinafter prescribed. At the time of his appointment he need not be a resident of the Town, but shall reside therein during his tenure of office. No person elected as Mayor or as a member of the Board of Commissioners shall be eligible for appointment as Town Administrator until one year shall have elapsed following the expiration of the term for which he was elected. The Town Administrator shall serve at the pleasure of the Board of Commissioners and shall receive such salary as the Board shall fix.

"Sec. 5.2. Powers and Duties of Town Administrator. The Town Administrator shall be the chief administrator of the Town. He shall be responsible to the Board of Commissioners for administering all municipal affairs placed in his charge by them, and shall have the following powers and duties.

- (1) He shall appoint and suspend or remove all Town employees, except the Town Attorney, in accordance with such general personnel rules, regulations, policies, or ordinances as the Board may adopt.
- (2) He shall direct and supervise the administration of all departments, offices, and agencies of the Town, subject to the general direction and control of the Board, except as otherwise provided by law.
- (3) He shall attend all meetings of the Board and recommend any measures that he deems expedient.
- (4) He shall see that all laws of the State, the Town Charter, and the ordinances, resolutions, and regulations of the Board are faithfully executed within the Town.
- (5) He shall prepare and submit the annual budget and capital program to the Board.
- (6) He shall annually submit to the Board and make available to the public a complete report on the finances and administrative activities of the Town as of the end of the fiscal year.
- (7) He shall make any other reports that the Board may require concerning the operations of the Town departments, offices, and agencies subject to his direction and control.
- (8) He shall perform any other duties that may be required or authorized by the Board.

#### "ARTICLE VI. TOWN ATTORNEY

"Sec. 6.1. Appointment; Qualifications; Terms; 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 and shall receive such compensation as the Board shall determine.

"Sec. 6.2. Duties of the 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, Town Administrator, and other Town officials with respect to the affairs of the Town; to draft all legal documents relating to the affairs of the Town; to

draft proposed ordinances when requested to do so; to inspect and pass all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board of Commissioners when required by the Board; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

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

"Sec. 7.1. Town Clerk. The Board of Commissioners may appoint a Town Clerk to keep a journal of the proceedings of the Board of Commissioners 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 of Commissioners may direct.

"Sec. 7.2. 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. 7.3. Town Accountant. The Board of Commissioners may appoint a Town Accountant to perform the duties of the Accountant as required by the Local Government Budget and Fiscal Control Act.

"Sec. 7.4. Consolidation of Functions. The Board of Commissioners may 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.

#### "ARTICLE VIII. FINANCE

"Sec. 8.1. Custody of Town Money. All moneys received by the Town for and in connection with the business of the Town government shall be paid promptly into the Town depository or depositories. Such institutions shall be designated by the Town Board in accordance with the regulations and subject to the requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on moneys belonging to the Town shall accrue to the benefit of the Town. All moneys belonging to the Town shall be disbursed in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"Sec. 8.2. Independent Audit. As soon as possible 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 an accountant certified by the Local Government Commission. The audit shall be secured in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

#### "ARTICLE IX. POLICE

"Sec. 9.1. Jurisdiction. The jurisdiction of the police force is hereby extended to include all Town-owned property and facilities whether located within or outside the corporate limits, and all members of the police force shall have upon and within such property and facilities all rights, power and authority as they have within the corporate limits.

#### "ARTICLE X. STREET AND SIDEWALK IMPROVEMENTS

"Sec. 10.1. Street Improvements; Assessments of Costs. In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements the Board of Commissioners is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

"Sec. 10.2. When Petition Unnecessary. The Board of Commissioners may order street improvements and assess the cost thereof, exclusive of the costs incurred at street intersections, against the abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes, without the necessity of a petition, upon the finding by the Board as a fact:

- (a) That the street improvement project does not exceed 1,200 linear feet, and
- (b) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or
- (c) That it is in the public interest to connect two streets, or portions of a street already improved, or
- (d) That it is in the public interest to widen a street, or part thereof, which is already improved; provided, that the assessments for widening any street or portion of the street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Sec 10.3. Street Improvement Defined. For the purposes of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 10.4. Sidewalks; Assessment of Costs. In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board of Commissioners is hereby authorized, without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Board of Commissioners may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

"Sec. 10.5. Assessment Procedure. In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board of Commissioners shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 10.6. Effect of Assessments. The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under the authority of Article 10 of Chapter 160A of the General Statutes.

"Sec. 10.7. Acceptance of Conveyance in Satisfaction of Assessments. The Town Tax Collector or other official or employee of the Town having charge of the collection of special assessments, shall have the right, power, and authority, by and with the approval of the Board of Commissioners first obtained and had, to receive and accept a fee simple conveyance to the Town of any lot or parcel of land in the Town, free and clear of other encumbrances, in full settlement and satisfaction of all street and sidewalk assessments outstanding and unpaid against such property. Such right, power, and authority, however, shall be limited to a conveyance of the whole of the lot or parcel of land against which the particular assessment or assessments involved were levied. No lot or tract of land may be divided and no such right, power, and authority exercised as to a part, only, of the property originally embraced in and covered by said assessment or assessments. In the case of such conveyance, it shall not be necessary that the street or sidewalk assessment or assessments against the property be foreclosed; but the Town, upon the receipt of any such conveyance, shall become and be the absolute fee simple owner of the property, as fully to all intents and purposes as if purchases in and through foreclosure proceedings for the enforcement of such street and sidewalk assessment or assessments.

#### "ARTICLE XI. RETIREMENT SYSTEM

"Sec. 11.1. Authority. The Board of Commissioners of the Town of Wake Forest is authorized to establish or provide for by ordinance a retirement system to provide for the payment of benefits to its employees or to their beneficiaries, in the following cases:

- (1) Retirement, because of age;
- (2) Disability;
- (3) Death.

"Sec. 11.2. Administration Contributions. Such system shall include such officers and employees of the Town as shall be determined by the Board of Commissioners. The Town shall contribute to the system in such amounts as it shall determine, in order to meet the liabilities accruing because of personal services rendered to the Town by its officers and employees; provided, however, that the system may also provide benefits which are based, partly or entirely, upon personal services rendered to the Town prior to the establishment thereof, and the Town may contribute the entire cost of benefits based on any such prior service. The contribution required to cover the cost of benefits based on prior service, if any, shall be sufficient to fund the liability for such prior service in not more than 40 years from the date of establishment of the system. The Board of Commissioners may provide that the employees shall share in the cost of financing the system, upon such terms as it deems advisable. The expense of administering the system shall be paid as provided by the Board of Commissioners and the Board of Commissioners shall appropriate each year sufficient funds to provide for the expense of the administration.

The system shall be maintained on a solvent actuarial reserve basis for all benefits, excepting the present value of benefits based on prior service.

"Sec. 11.3. Retirement Board Authorized. The ordinance may provide for the appointment or election of a retirement board or board of trustees, and for the delegation to such board of such powers and duties as may be deemed necessary to carry out the

intent and purpose for which the system is established. If such a retirement board or board of trustees is provided for, the said board shall consist of a member or members of the Board of Commissioners, an employee or employees entitled to participate in the system, and one or more citizens of the Town not officially connected with the Town government nor entitled to participate in the system.

"Sec. 11.4. Contracting. The Town may provide for the payment of one or more of the benefits enumerated in Section 11.2 by contracting with the governing body of any other municipality or municipalities in the State, with the United States Government or any of its agencies or departments, with the State of North Carolina or any of its agencies or departments, or may contract with any insurance company or other corporation for the performance of any service in connection with the establishment of such fund, or for the investment, care, or administration of such fund, or for any other service relating thereto. The municipality or any other governing body, agency, insurance company, person, or corporation contracting with the Town for the investment, care or administration of said system may invest and reinvest the funds thereof in one or more of the types of securities or other investments authorized by the General Statutes of North Carolina and by other State law, for the investment of assets of domestic life insurance companies.

"Sec. 11.5. Supplemental Retirement Plans and Funds. Nothing in this Charter shall be construed so as to prohibit the Town from providing or continuing to provide Old Age and Survivors Insurance, or Social Security coverage, for its officers and employees as the same may be authorized by Federal and State law, either separately or in addition to the fund authorized herein or any other retirement or pension fund or plan authorized by general law or local act.

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

"Sec. 12.1. Presentation of Claims; Suit upon Claims. (a) All claims or demands against the Town of Wake Forest arising in tort or in contract shall be presented to the Board of Commissioners in writing, signed by the claimant, or his attorney or agent, within 90 days after the claim or demand is due or the cause of action accrues and such demand shall contain the date, place and brief description for which the demand is made, and no suit or action shall be brought thereon within 30 days or after the expiration of 12 months from the time said claim or demand is so presented. Unless the claim or demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 months thereafter, any action thereon is barred.

(b) No action shall be instituted against the Town for damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the Board of Commissioners of the claim, stating in the notice the date that the alleged use commenced, a description of property alleged to have been used and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for

him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the occurrence or the infliction of the injury complained of; if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the occurrence or the infliction of the injury complained of, whichever is the longer period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and known to be suffering from physical or mental incapacity."

**Sec. 2.** The purpose of this act is to revise the Charter of the Town of Wake Forest and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidate into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

**Sec. 3.** This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein.

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Wake Forest.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

**Sec. 4.** (a) The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

<u>CHAPTER</u>	<u>LAWS</u>
1	Private Laws 1880 (extra Session)
18	Public Laws 1887
20	Private Laws 1887
111	Private Laws 1909
116	Private Laws 1909
35	Private Laws 1915
36	Private Laws 1924 (extra Session)
564	Public Laws 1933
466	Public-Local Laws 1941
465	Session Laws 1951
308	Session Laws 1955
275	Session Laws 1959
1124	Session Laws 1965

(b) The following acts, which have been superseded by application of the Judicial Department Act of 1965 in the County of Wake, are hereby repealed:

CHAPTER

LAWS

80	Public Laws 1879
755	Public-Local Laws 1915
74	Public-Local Laws 1929
197	Public-Local Laws 1931
288	Public-Local Laws 1931
322	Public-Local Laws 1937
550	Public-Local Laws 1937
557	Public-Local Laws 1939
477	Session Laws 1951
547	Session Laws 1951
1029	Session Laws 1951
194	Session Laws 1961
525	Session Laws 1967

**Sec. 5.** No provisions of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) Derived from, or which might be sustained or preserved in reliance upon action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

**Sec. 6.** No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

**Sec. 7.** (a) All existing ordinances and resolutions of the Town of Wake Forest, and all existing rules or regulations of departments or agencies of the Town of Wake Forest, not inconsistent with provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act or against the Town of Wake Forest or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

**Sec. 8.** Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application 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. 9.** All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

**Sec. 10.** This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 26th day of April, 1973.