

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 144
HOUSE BILL 58

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

The General Assembly of North Carolina enacts:

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

"THE CHARTER OF THE TOWN OF TROUTMAN.

"ARTICLE I.

"Incorporation and Corporate Powers.

"Sec. 1.1. Incorporation and general powers. The Town of Troutman shall continue to be a body politic and corporate under the name of the 'Town of Troutman', 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 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. Powers. The Town of Troutman shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now or hereafter may be conferred, either expressly or by implication, upon the Town of Troutman specifically or upon municipal corporations generally, by this Charter, by the State Constitution, or by general or special statute. Provided further that the Town of Troutman shall be authorized to participate in all federal programs not contrary to the Constitution of the State of North Carolina and not explicitly denied to municipalities by the general statutes.

"ARTICLE II.

"Corporate Boundaries.

"Sec. 2.1. Existing corporate boundaries. (a) The corporate limits of the Town of Troutman shall be those existing at the time of the ratification of this Charter and as the same may be altered from time to time in accordance with law. The Board of Aldermen shall cause to be prepared a map to be designated 'Map of the Town of Troutman Corporate Limits' showing the corporate limits as the same may exist as of the effective date of this Charter. The Board of Aldermen shall also cause to be prepared a written description of the corporate limits as shown on said map to be designated 'Description

of Troutman 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 Alderman shall cause to be made the appropriate changes and/or additions to said official map and 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 effect as would the official map of 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 Aldermen.

"Sec. 3.1. Composition of Board of Aldermen. The Board of Aldermen 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 Aldermen. When there is an equal division on a question, the Mayor shall resolve the deadlock by his or her vote, but he or she shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him or her by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Aldermen shall choose one of its number to act as Mayor Pro Tempore, and he or she 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 Mayor and members of the Board of Aldermen shall serve for terms 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 qualify.

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

(c) In the event a vacancy occurs in the office of Mayor or Alderman, 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 Aldermen; oaths of office. The Board of Aldermen 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 Alderman shall take and subscribe to 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 Aldermen 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 Aldermen 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 elected to the Board of Aldermen (not excused from voting on the question in issue) shall be necessary to adopt any ordinance, or any resolution or motion.

"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 Aldermen of the Town of Troutman'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE IV.

"Elections.

"Chapter 1. Municipal 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 each election, the candidate for Mayor who receives the largest number of votes cast for Mayor shall be declared elected for a term of four years and at the regular municipal election held in 1979 the three candidates who receive the highest number of votes shall be elected for four-year terms and the two candidates who receive the next highest votes shall be elected for two-year terms. Beginning at the regular municipal election to be held in 1981 and every four years thereafter, two members of the Board of Aldermen shall be elected to serve four-year terms. Beginning at the regular municipal election to be held in 1983, and every four years thereafter, three members of the Board of Aldermen shall be elected to serve four-year terms.

"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.

"Sec. 4.3 - 4.8 (Reserved).

"Chapter 2. Recall of Elected Officials.

"Sec. 4.9. Removal of officeholders. The holder of any elective office serving in the municipal government of the Town may be removed at any time by the electors qualified to vote for a successor of such incumbent.

"Sec. 4.10. Procedure. (a) A petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least twenty-five percentum (25%) of the registered and qualified voters of the Town, demanding an election of a successor of the person sought to be removed, shall be filed with the Town Clerk. The petition shall contain a general statement of the ground for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his or her signature his or her place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements therein made are true, as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be.

(b) Within 10 days from the date of filing of such petition, the Town Clerk shall examine and from the voters' register ascertain whether or not the petition is signed by the requisite number of qualified electors, and he shall attach to the petition his certificate, showing the results of such examination. If by the clerk's certificate it is shown to be insufficient, it may be amended within 10 days from the date of the certificate. The clerk shall, within 10 days after such amendment, make a like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed to be sufficient, the clerk shall submit the same to the Town Board without delay.

(c) If the petition shall be found to be sufficient, the Town Board shall order and fix a date for holding a primary election, in accordance with State law governing special elections. If, in the primary election, any candidate receives a majority of all votes cast, he shall be declared to be elected to fill out the remainder of the term of the officer who is sought to be recalled. If there be more than two candidates in such primary and no one receives a majority of all the votes cast therein, then the Board shall call another election, to be held in accordance with State law governing special elections, at which election the two candidates receiving the highest vote in the primary shall be voted upon. Insofar as possible, the laws, rules and procedures governing the conduct of regular municipal election shall apply to any election called pursuant to this section.

"Sec. 4.11. Successor in office. The successor of any officer so removed shall hold office during the unexpired term of his or her predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he or she requests otherwise in writing, the clerk shall place his or her name on the official ballot without nomination. At such election, if some person other than the incumbent is elected the incumbent shall thereupon be deemed removed from the office upon qualification of his or her successor. If the incumbent received a majority of the votes in the primary election, he or she shall continue in office.

"Sec. 4.12. Failure to qualify. In case the person elected should fail to qualify within 10 days after receiving notification of election, the office shall be deemed vacant. In that event, the unexpired term shall be filled by appointment by the Town Board, but the person removed shall not be eligible for appointment. The person so appointed by the Board shall be subject to recall as other members of the Board.

"Sec. 4.13. Right of recall continued. Such method of removal shall be cumulative and additional to any other method provided by law. In the event any officer is recalled and any person is elected as his successor, the right of recall of such successor so elected shall be as in the case of an officer originally elected.

"ARTICLE V.

"Organization and Administration.

"Chapter 1. Town Manager.

"Sec. 5.1. Council-manager form of government. The Town may operate under the council-manager form of government in accordance with Part 2 of Article 7, Chapter 160-A of the General Statutes upon adoption of an ordinance in accordance with Part 4 of Article 5, Chapter 160-A of the General Statutes.

"Chapter 2. Town Attorney.

"Sec. 5.2. Appointment, qualifications, term, and compensation. (a) The Board of Aldermen 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.

(b) The Board of Aldermen may also employ such other attorneys as it deems advisable in order to provide legal advice and assistance to the Town.

"Sec. 5.3. 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 Aldermen 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 upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board of Aldermen 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 VI.

"Other Administrative Offices and Employees.

"Sec. 6.1. Town Clerk and Deputy Town Clerk. (a) The Board of Aldermen shall appoint a Town Clerk and may appoint a Deputy Town Clerk to keep a journal of the proceedings of the Board, 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.

(b) The Town Board may combine the position of the Town Clerk with any other office or offices that it sees fit, vesting in the person holding such combined office or offices the powers and duties of all offices.

"Sec. 6.2. Tax Collector. (a) The Town Board shall appoint a Tax Collector and may appoint a Deputy Tax Collector to collect all taxes; licenses, fees and other moneys due

the Town, subject to the provisions of State law and ordinances of the Town. The Tax Collector shall diligently comply with and enforce all the general laws of North Carolina relating to the collection of taxes by municipalities, and shall perform such other duties as the Board may direct.

(b) The Town Board may combine the position of Tax Collector with any other office or offices that it sees fit, vesting in the person holding such combined office or offices the powers and duties of all offices.

"Sec. 6.3. Finance Officer. (a) The Town Board shall appoint a Finance Officer and may appoint a Deputy Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act, and to perform such other duties as the Board may direct.

(b) The Town Board may combine the position of Finance Officer with any other office or offices that it sees fit, vesting in the person holding such combined office or offices the powers and duties of all offices.

"Sec. 6.4. Budget Officer. (a) The Town Board may appoint a Budget Officer and may appoint a Deputy Budget Officer to perform the duties of the Budget Officer as required by the Local Government Budget and Fiscal Control Act, and to perform such other duties as the Board may direct.

(b) The Town Board may combine the position of Budget Officer with any other office or offices that it sees fit, vesting in the person holding such combined office or offices the powers and duties of all offices.

"ARTICLE VII.

"Finance.

"Sec. 7.1. Custody of Town money. 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 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. 7.2. 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 VIII.

"Police.

"Sec. 8.1. 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 IX.

"Street and Sidewalk Improvements.

"Sec. 9.1. Street improvements and assessment 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 Aldermen 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. 9.2. When petition unnecessary. The Board of Aldermen 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 assessments for widening any street or portion of 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. 9.3. 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. 9.4. 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 Aldermen 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 Aldermen 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. 9.5. Assessment procedure. In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board of Aldermen 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. 9.6. 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 authority of Article 10 of Chapter 160A of the General Statutes.

"Sec. 9.7. Acceptance of conveyance in satisfaction of assessments. The Town Tax Collector or other official 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 Aldermen 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 purchased in and through foreclosure proceedings for the enforcement of such street and sidewalk assessment or assessments.

"ARTICLE X.

"Condemnation Proceedings.

"Sec. 10.1. Power of eminent domain. (a) The procedures provided in Article 9 of Chapter 136 of the General Statutes, as specifically authorized by G.S. 136-66.3(c), shall be applicable to the Town in the case of acquisition of lands, easements, privileges, rights-of-way and other interests in real property for streets and sidewalks, sewer lines, waterlines, and other utility lines in the exercise of the power of eminent domain. The Town, when seeking to acquire such property or rights or easements therein or thereto, shall have the right and authority, at its option and election, to use the provisions and procedures as authorized and provided in G.S. 136-66.3(c) and Article 9 of Chapter 136 of the General Statutes for any of such purposes without being limited to streets constituting a part of the State highway system; provided, however, that the provisions of this subsection shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c), unless:

- (1) the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the Town; or
- (2) it is first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

(b) The authority conferred upon the Town in subsection (a) shall only be exercised when the Town is seeking to acquire land, easements, privileges, rights-of-way or other interests in real property located in and outside the corporate limits of the Town.

"ARTICLE XI.

"Special Provisions.

"Sec. 11.1. Incorporation by reference. (a) The Town Board is hereby authorized to adopt by reference the provisions of any code or public record, as herein defined, or portions thereof, without setting forth the provisions of such code or public record in full, and the contents of any map or plat; provided that official copies of all codes, public records, maps and plats, as are adopted by reference, shall be maintained for public inspection in the office of the Town Clerk.

(b) As used in this section, the following terms shall have the meanings indicated as follows, unless the context otherwise requires:

- (1) 'Code' shall mean and include any published compilation of rules and regulations which have been prepared by various technical trade associations, agencies or departments of the State of North Carolina, and shall include specifically, but shall not be limited to, building codes; plumbing codes, electrical wiring codes; fire prevention codes; traffic codes; inflammable liquids codes; gas codes; heat and air conditioning codes; together with any other code which embraces rules and regulations pertinent to a subject which is a proper municipal legislative matter.
- (2) 'Public records' shall mean and include any municipal State or federal statute, rule or regulation adopted prior to the exercise by the Town of the authority to incorporate by reference herein granted; provided, however, that this definition shall not include the municipal ordinances, rules and regulations of any municipality except those of the Town of Troutman nor shall this definition include the State laws, rules and regulations of any other than the State of North Carolina.
- (3) 'Map' or 'Plat' shall mean any map or plat recorded in the office of the register of deeds of Iredell County, North Carolina, or on file in the office of the Town Clerk of the Town of Troutman, North Carolina.
- (4) 'Published' shall mean printed, lithographed, multigraphed, mimeographed or otherwise reproduced.

(c) Any amendment which may be made to any code, public record, map or plat incorporated by reference by the Town Board hereunder may be likewise adopted by reference; provided, that such amendment adopted by reference shall be maintained for public inspection in the office of the Town Clerk."

Sec. 2. (a) The purpose of this act is to revise the Charter of the Town of Troutman 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 consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

(b) 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:

- (1) any acts concerning the property, affairs, or government of public schools in the Town of Troutman;

- (2) any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.
- (c) The following act, having served the purposes for which it was enacted, or having been consolidated into this act is hereby repealed: Chapter 158, Private Laws 1973.
- (d) No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):
 - (1) now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provision of law repealed by this act;
 - (2) 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 provisions of law repealed by this act.
- (e) No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:
 - (1) the repeal herein of any act repealing such law, or
 - (2) any provision of this act that disclaims an intention to repeal or effect enumerated or designated laws.
- (f) (1) All existing ordinances and resolutions of the Town of Troutman, and all existing rules or regulations of departments or agencies of the Town of Troutman, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.
(2) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Troutman or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.
- (g) **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 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.
- (h) Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.
- (i) All laws and clauses of laws in conflict with the provisions of this act are hereby repealed."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1981.