

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 352
SENATE BILL 224

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF
SOUTHERN PINES AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Southern Pines is hereby revised and consolidated to read:

"THE CHARTER OF THE TOWN OF SOUTHERN PINES.

"ARTICLE I.

"INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Sec. 1.1. Incorporation.—The Town of Southern Pines, North Carolina, in the County of Moore, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'Town of Southern Pines', hereinafter at times referred to as the 'Town'.

"Sec. 1.2. Powers.—The Town of Southern Pines 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 Southern Pines specifically, or upon municipal corporations generally, by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. Corporate Limits.—The corporate limits of the Town of Southern Pines shall be those existing at the time of ratification of this Charter, as the same are set forth on the official map of the Town, and as the same may be altered from time to time in accordance with law. An official map of the Town, showing the current Town boundaries, shall be maintained permanently in the office of the Town Clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the Town shall be made.

"ARTICLE II.

"MAYOR AND COUNCIL.

"Sec. 2.1. Governing Body.—The Town Council elected and constituted as herein set forth, shall be the governing body of the Town. On behalf of the Town, and in conformity with applicable laws, the Town Council may provide for the exercise of all municipal powers, and shall be charged with the general government of the Town.

"Sec. 2.2. Town Council; Composition; Terms of Office.—The Town Council shall be composed of five members, each of whom shall be elected for terms of two years in the manner provided by Article III of this Charter, provided they shall serve until their successors are elected and qualified.

"Sec. 2.3. Selection of the Mayor and other Officers; Meetings.—The Mayor shall be elected by the Council from among its members and shall hold office during the term for which he or she has been elected to the Council, and until a successor is elected and qualified. The Mayor shall be the official head of the Town, preside at meetings of the Town Council, and shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon the Mayor by the General Statutes of North Carolina, by this Charter, and by the ordinances of the Town.

"Sec. 2.4. Mayor Pro Tempore.—In accordance with applicable State Laws, the Town Council shall appoint one of its members to act as Mayor pro tempore to 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 Council.

"Sec. 2.5. Treasurer.—The Mayor and Council may elect from their membership a treasurer, and in addition to the salary allowed as a member of the Council, such treasurer may be paid for services as treasurer an additional amount to be determined by the Council.

"Sec. 2.6. Meetings of the Board.—In accordance with the General Statutes, the Town Council shall establish a suitable time and place for its regular meetings. Special meetings may be held according to the applicable provisions of the General Statutes.

"Sec. 2.7. Ordinances and Resolutions.—The adoption, amendment, repeal, pleading, or proving of Town ordinances and resolutions shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The enacting clause of all Town ordinances shall be: "Be it ordained and established by the Town Council of the Town of Southern Pines".

"Sec. 2.8. Voting Requirements; Quorum.—Official action of the Town Council shall, unless otherwise provided by law, be by majority vote, provided that a quorum, consisting of a majority of the actual membership of the Council, is present. Vacant seats are to be subtracted from the normal Council membership to determine the actual membership. All final votes of the Town Council involving an ordinance, resolution or the expenditure of fifty dollars (\$50.00) or more shall be by ayes and noes and shall be entered on the records. Three affirmative votes at least shall be necessary for the passage of any order, ordinance, or resolution.

"Sec. 2.9. Qualifications for Office; Vacancies; Compensation.—The compensation of Council members, the filling of vacancies on the Council and the qualifications of Council members shall be in accordance with applicable provisions of the General Statutes.

"ARTICLE III.

"ELECTIONS.

"Sec. 3.1. Regular Municipal Elections; Conduct and Method of Election.—Regular municipal elections shall be held in the Town every two years in odd-numbered years and shall be conducted in accordance with Chapter 163 of the General Statutes. Members of the Town Council shall be elected according to the nonpartisan primary and election method of elections, and the results determined in accordance with G.S. 163-294.

"Sec. 3.2. Election of the Mayor and Town Council.—At the regular municipal elections in 1981 and biennially thereafter, there shall be elected five members of the Town Council to fill the seats of those officers whose terms are then expiring.

"ARTICLE IV.

"ORGANIZATION AND ADMINISTRATION.

"Chapter 1.

"City Manager.

"Sec. 4.1. Council-Manager Form of Government.—The Town shall operate under the council-manager form of government in accordance with Part 2 of Article 7, Chapter 160A of the General Statutes.

"Sec. 4.2. Appointment; Qualifications; Compensation.—The Town Council shall appoint a Town Manager, who shall serve at the pleasure of the Council. The manager shall be chosen on the basis of executive and administrative qualifications, with special reference to actual experience in or knowledge of accepted practice with respect to the duties of a Town Manager. At the time of appointment, the manager need not be a resident of the Town or State, but during tenure of office shall reside within the Town. The manager shall receive such salary as the Council may establish.

"Sec. 4.3. Powers and Duties.—The Town Manager shall be the administrative head of the Town government, and shall be responsible to the Town Council for the proper administration of all affairs of the Town. Except as otherwise provided by this Charter, the Town Manager shall have all the powers and duties assigned or delegated to a Town Manager by State law. The Town Manager shall also perform such other duties as are prescribed by the Council.

"Chapter 2.

"Town Attorney.

"Sec. 4.11. Appointment; Qualifications; Compensation.—(a) The Town Council shall appoint a town attorney to be its legal advisor, who shall serve at the pleasure of the Council. The town attorney shall be an attorney-at-law licensed to practice in this State. The town attorney shall receive such compensation as the Council may establish.

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

"Sec. 4.12. Duties.—The town attorney shall be the principal legal advisor to the Town, and shall perform whatever duties are prescribed by the Town Council.

"ARTICLE V.

"ASSESSMENTS.

"Sec. 5.1. Petition Unnecessary.—In addition to authority as now or may hereafter be granted to the Town for making street or sidewalk improvements, the Town Council is hereby authorized to order such improvements and to assess the total cost thereof against abutting properties without the necessity of a petition of property owners.

"Sec. 5.2. Sidewalk Repairs.—The Council is further authorized to order or to make sidewalk repairs and driveway repairs across sidewalks according to standards and specifications of the City, and to assess the total cost thereof against abutting properties without the necessity of a petition of property owners.

"Sec. 5.3. Sidewalk On One Side of Street.—If a sidewalk is constructed on only one side of the street, the cost thereof may be assessed against the property abutting on both sides of the street, unless there already exists a sidewalk on the other side of the street, the total cost of which was assessed against the abutting property.

"Sec. 5.4. Assessment Procedure and Effect.—In ordering street or sidewalk improvements or sidewalk repairs and assessing the cost thereof, the Council shall follow the procedures provided by the General Statutes for street and sidewalk improvements, except those provisions relating to the petition of property owners, the sufficiency thereof, and limitation of percentage of cost to be assessed. The effect of levying assessments pursuant to this act shall for all purposes be the same as if they were levied under authority of the General Statutes.

"Sec. 5.5. Improvements Outside Corporate Limits.—The Town Council shall also have the power and authority, in the extension, installation, construction, operation and maintenance of its water and sewerage facilities outside of its corporate boundaries, to create water and/or sewer benefit assessment districts and to specifically assess the cost of such water or sewer installations or construction to the property in such benefit assessment districts on the basis of the front foot rule, the benefits derived or to be derived by the property in such assessment districts, or some other equitable method promulgated and established by the governing body in the exercise of its sound legislative discretion.

"ARTICLE VI.

"LIEN FOR RESIDENTIAL IMPROVEMENTS.

"Sec. 6.1. Lien Authorized.—The Town Council is authorized and empowered to make improvements to residential property, including connection to water and sewer lines, and to affix a lien to the benefitted property for the cost of making such improvements and providing such services, and upon receipt of a petition from the property owner or owners, and determination that the proposed work is in compliance with federal, State and local rules and regulations pertaining to Community Development Block Grants.

"Sec. 6.2. Petition.—The authority granted by this Article shall be exercised only upon petition by the owner or owners of such benefitting property. Such petition shall be upon a form approved by the Town Council and shall contain:

- (1) A description of the improvements and/or service or services requested, and
- (2) A description of the property to be improved or served, and the anticipated cost of furnishing such services, and
- (3) An acknowledgement by the owner or owners that they understand that the cost of such improvements will become a lien against their property, and
- (4) Such other information as may be required by the Town Council.

"Sec. 6.3. Approval.—The Town Council may approve or deny such petition submitted. If any such petition shall be approved by the Town Council, the town clerk shall mark upon the face of such petition such words as shall indicate such approval by the Town Council and the date and time of the approval.

"Sec. 6.4. Foreclosure.—From and after approval of any petition submitted pursuant to this Article, a lien in favor of the Town shall exist upon the property described in such petition for the amount stated in such petition as the anticipated cost of furnishing such improvements and services. Such liens shall be inferior to all prior and subsequent federal, State, county and municipal tax liens of record, but superior to all others. This lien may be collected by foreclosure in the same manner as provided by law for the foreclosure of liens for special assessments. Any foreclosure proceeding instituted pursuant to this section shall be deemed a proceeding in rem and no mistake or omission as to the name of any owner or person interested in any lot or parcel of land affected thereby shall be regarded as a substantial mistake or omission. No change of ownership shall affect any lien created pursuant to this Article.

"Sec. 6.5. Amount.—The amount of the lien affixed pursuant to the act for the purpose of improving residential dwellings shall not exceed the valuation for ad valorem tax purposes of the land and improvements which are benefitted.

"Sec. 6.6. Payment.—The owner or owners submitting such a petition to the Town Council shall also have the option of removing the lien from their property by either a lump sum payment or completion of an installment payment plan of the cost of the improvements and services.

"Sec. 6.7. Amendment.—If the Town Council shall determine that the actual cost of furnishing the improvements and services provided for in any approved petition shall have exceeded the amount originally stated in such petition as the anticipated cost of providing such improvements or services, the Town Council may, by resolution, amend the approved petition to set forth the correct costs. The Town Council's determination of such actual costs shall be deemed conclusive. Upon amendment as provided by this subsection, the petition shall be deemed effective as if originally submitted with the amended costs set forth therein. A copy of any resolution enacted pursuant to this subsection shall be mailed or personally delivered to the owner or owners of such property at their last known address.

"Sec. 6.8. Records.—Any petition approved by the Town Council and any amendment thereof shall be filed in the office of the town clerk. The town clerk shall maintain a record of such approved petitions and amendments thereof and such records shall be available to public view during regular business hours.

"Sec. 6.9. Correction.—If the actual cost of providing the services requested in any approved petition shall be less than the costs set forth in such petition as anticipated costs, the Town Council may, by resolution, amend the approved petition to set forth the correct costs under the same procedures as outlined in Section 6.7 above, provided, however, any anticipated costs set forth in the approved petition which shall have been determined under any schedule of charges approved by the Town Council shall, for the purpose of this section, be deemed the actual costs of providing such service.

"ARTICLE VII.

"SPECIAL PROVISIONS.

"Sec. 7.1. Police jurisdiction.—Any police officer employed by the Town shall have the power, when in pursuit of a person charged with the commission of any crime or who has committed any crime in the presence of any such officer within the corporate

limits of said Town of Southern Pines, to continuously follow and pursue said person to any part of Moore County, and may arrest him and carry him before the proper tribunal.

"Sec. 7.2. Sale of property.—The Town Council may publicly or privately sell, lease, rent, exchange or otherwise convey, or cause to be publicly or privately sold, leased, rented, exchanged or otherwise conveyed, any property, real or personal, or any interest in such property belonging to the Town.

"Sec. 7.3. Condemnation Powers and Procedure.

(a) In addition to other provisions of law and as alternative powers and methods of procedure for the exercise of the power of eminent domain, the Town of Southern Pines is hereby authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended, in the exercise of the power of eminent domain for all of the purposes set out below; provided, that whenever therein the words 'Department of Transportation' appear, they shall be deemed to include the 'Town of Southern Pines', and whenever therein the words 'Secretary of the Department of Transportation' appear, they shall be deemed to include the 'Town Manager'. The purposes for which the authority contained in this section may be exercised are: opening, widening, extending, or improving streets, alleys and sidewalks; establishing, extending, enlarging or improving water supply and distribution systems and sewage collection and disposal systems; acquisition of property for community development purposes which meets the criteria contained in G.S. 160A-457(1) a, b, c or d; and off-street parking facilities and systems.

(b) The Town shall possess the power of eminent domain for the purpose of acquiring the fee or any lesser interest in properties already devoted to the public use and owned by a public service corporation, including public utilities as defined in Chapter 62 of the General Statutes and electric and telephone membership corporations, only if such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and their operation by such public service corporation.

"Sec. 7.4. Streets in Extraterritorial Jurisdiction.

The Town Council shall have the power and authority to name streets and change street names in the Town's extraterritorial planning jurisdiction to the same extent as within the Town's corporate limits.

"ARTICLE VIII.

"SPECIAL ASSESSMENTS FOR PARKING FACILITIES.

"Sec. 8.1. The Town of Southern Pines is hereby authorized to provide for the levy of special assessments against benefitted property within its corporate limits for the total cost or a portion of the cost of the purchase, construction, reconstruction, or repair of parking facilities in accordance with the provisions of this act.

"Sec. 8.2. For purposes of this act, the term 'parking facilities' shall mean any area or place operated or to be operated by the Town for the parking or storing of motor and other vehicles, open to public use, and shall without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the

ground which are used or are usable in connection with such parking or storing of such vehicles.

"Sec. 8.3. The procedure for levying special assessments for parking facilities shall be the procedure contained in Article 10 of Chapter 160A of the General Statutes, entitled 'Special Assessments', except that the required number of signatures on the petition for the improvements shall be at least a majority in number of the owners of property in the benefitted area, who must represent at least a majority of the lineal feet of frontage, square feet of floor space or other basis on which the assessment is to be made; and except that such assessments may be paid in annual installments over a period not exceeding 20 years. The basis on which the assessment is made may be by the number of square feet of floor space fronting either on the improvements or on streets in the benefitted area, or by any method set out in G.S. 160A-218, or by any other fair basis as determined by the Town Council.

"Sec. 8.4. The effect of the act of levying assessments under the authority of this act shall be for all purposes the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Southern Pines 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.

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:

- (1) Any acts concerning the property, affairs, or government of public schools in the Town of Southern Pines.
- (2) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.
- (3) Any acts concerning the sale of alcoholic beverages or elections relating thereto.

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:

Private Laws of 1887, Chapter 159
Private Laws of 1891, Chapter 274
Private Laws of 1895, Chapter 42
Private Laws of 1897, Chapter 194
Public Laws of 1899, Chapter 529
Private Laws of 1899, Chapter 167
Private Laws of 1901, Chapter 218
Private Laws of 1903, Chapter 290
Private Laws of 1905, Chapter 168
Private Laws of 1905, Chapter 214
Private Laws of 1905, Chapter 268

Private Laws of 1909, Chapter 199
Private Laws of 1909, Chapter 331
Private Laws of 1915, Chapter 102
Private Laws of 1921, Extra Session, Chapter 92
Private Laws of 1923, Chapter 97
Private Laws of 1929, Chapter 120
Private Laws of 1931, Chapter 27
Private Laws of 1931, Chapter 39
Public-Local Laws of 1931, Chapter 132
Public-Local Laws of 1931, Chapter 199
Private Laws of 1935, Chapter 245
Session Laws of 1945, Chapter 52
Session Laws of 1945, Chapter 71
Session Laws of 1947, Chapter 513
Session Laws of 1949, Chapter 38
Session Laws of 1949, Chapter 284
Session Laws of 1951, Chapter 343
Session Laws of 1957, Chapter 442
Session Laws of 1959, Chapter 74
Session Laws of 1965, Chapter 838
Session Laws of 1975, Chapter 367
Session Laws of 1975, Chapter 498
Session Laws of 1977, Chapter 418

(b) Section 1 of Chapter 338, Public Laws of 1935, is amended by deleting the words "Southern Pines and", both places they appear.

Sec. 5. 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 provisions of law repealed by this act.

(2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions 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:

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

(2) 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 Southern Pines and all existing rules or regulations of departments or agencies of the Town of Southern Pines not inconsistent with the 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 by or against the

Town of Southern Pines or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. If any 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.

Sec. 9. 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.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1981.