

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 431
HOUSE BILL 885

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

The General Assembly of North Carolina enacts:

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

"THE CHARTER OF THE TOWN OF WAYNESVILLE.

"ARTICLE I.

"Incorporation, Corporate Powers and Boundaries.

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

"Sec. 1.2. Powers. The Town of Waynesville 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 Waynesville 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 Waynesville shall be those existing at the time of ratification of this Charter, as the same are now or hereafter may be constituted pursuant to law. An official map or description 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 pursuant to law, the appropriate changes to the official map or description of the Town shall be made.

"ARTICLE II.

"Mayor and Board of Aldermen.

"Sec. 2.1. Governing Body. The Mayor and Board of Aldermen, 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 Mayor and Board may provide for the exercise of all municipal powers, and shall be charged with the general government of the Town.

"Sec. 2.2. Mayor; Terms of Office; Duties. The Mayor shall be elected by and from the qualified voters of the Town for a term of four years, in the manner provided by Article III of this Charter; provided, the Mayor shall serve until his successor is elected and qualified. The Mayor shall be the official head of the Town government, shall

preside at all meetings of the Board of Aldermen, and shall have the powers and duties of Mayor as prescribed by this Charter and the General Statutes. The Mayor shall have the right to vote on all matters before the Board.

"Sec. 2.3. Board of Aldermen; Terms of Office. The Board of Aldermen shall be composed of four members, each of whom shall be elected for terms of four years, in the manner provided by Article III of this Charter; provided, Board members shall serve until their successors are elected and qualified.

"Sec. 2.4. Mayor Pro Tempore. In accordance with applicable State laws, the Board of Aldermen 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 Board.

"Sec. 2.5. Meetings of the Board. In accordance with applicable State laws, the Board shall establish a suitable time and place for its regular meetings. Special meetings may be held according to applicable provisions of the General Statutes.

"Sec. 2.6. Ordinances and Resolutions. The adoption, amendment, repeal, pleading, or proving of Town ordinances and resolutions shall be in accordance with applicable provisions of the General Statutes of North Carolina not inconsistent with this Charter. Except as otherwise provided by law, all ordinances shall become effective upon adoption; provided, an ordinance may, by its own terms, specify some other time upon which it shall take effect. The enacting clause of all Town ordinances shall be: 'Be it ordained by the Board of Aldermen of the Town of Waynesville'.

"Sec. 2.7. Voting Requirements; Quorum; Emergency Measures. Official action of the Board shall, except as otherwise provided by law, be by majority vote, provided that a quorum, consisting of a majority of the actual membership of the Board, is present. Vacant seats are to be subtracted from the normal Board membership to determine the actual membership.

"Sec. 2.8. Qualifications for Office; Vacancies; Compensation. The compensation of Board members, the filling of vacancies on the Board, and the qualifications of Board members shall be in accordance with applicable provisions of the General Statutes.

"ARTICLE III.

"Elections.

"Sec. 3.1. Regular Municipal Elections; Conduct. Regular municipal elections shall be held in the Town every four years in odd-numbered years, and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The Mayor and members of the Board shall be elected according to the nonpartisan election method.

"Sec. 3.2. Election of the Mayor. At the regular municipal election in 1983, and every four years thereafter, there shall be elected a mayor and four aldermen to serve a term of four years.

"ARTICLE IV.

"Organization and Administration.

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

"Sec. 4.2. Town Manager. The Board of Aldermen shall appoint a Town Manager who shall be the administrative head of Town government, and who shall be responsible to the Board for the proper administration of the affairs of the Town. The Town Manager shall hold office at the pleasure of the Board of Aldermen, and shall receive such compensation as the Board shall determine. In exercising his duties as chief administrator, the manager shall:

(1) Appoint and suspend or remove all Town officers and employees not elected by the people, except the Town Attorney and those whose appointment or removal is otherwise provided for by law, in accordance with such general personnel rules, regulations, policies or ordinances as the Board may adopt.

(2) Report to the Board of Aldermen each appointment or removal of an officer or employee at the next Board meeting following such appointment or removal.

(3) 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.

(4) Attend all meetings of the Board, unless excused therefrom, and recommend any measures that he deems expedient.

(5) Prepare and submit the annual budget and capital program to the Board.

(6) Keep the Board fully advised as to the financial condition of the Town and annually submit to the Board, and make available to the public, a complete report on the finances and administrative activities of the Town at the end of the fiscal year.

(7) Make any other reports that the Board may require concerning the operation of the Town departments, offices and agencies subject to his direction and control.

(8) Perform any other duties that may be required or authorized by the Board, or as required by law.

"Sec. 4.3. Town Attorney. The Board of Aldermen shall appoint a Town Attorney who shall be licensed to engage in the practice of law in the State of North Carolina. Upon request by the Board of Aldermen, it shall be the duty of the Town Attorney to defend suits against the Town; to advise the Mayor, Board of Aldermen and other Town officials with respect to the affairs of the Town; to draft legal documents relating to the affairs of the Town; to inspect and pass upon agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend meetings of the Board of Aldermen, and to perform other duties as the Board may direct.

"Sec. 4.4. Town Clerk. The Town Manager shall appoint a 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 of Aldermen may direct.

"Sec. 4.5. Town Finance Officer. The Town Manager shall appoint a Town Finance Officer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 4.6. Town Tax Collector. The Town Manager shall appoint a Town Tax Collector to collect all taxes, licenses, fees and other revenues accruing to the Town, subject to the General Statutes, the provisions of this Charter and the ordinances of the

Town. The Town Tax Collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes and other revenues by municipalities.

"Sec. 4.7. Consolidation of Functions. The Board of Aldermen may provide for the consolidation of any two or more positions of Town Manager, Town Clerk, Town Tax Collector and Town Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"Sec. 4.8. Other Administrative Officers and Employees. Consistent with applicable State laws, the Board of Aldermen may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the Town government in order to promote the orderly and efficient administration of the affairs of the Town.

"ARTICLE V.

"Public Improvements.

"Sec. 5.1. Assessments for Street and Sidewalk Improvements; Petition Unnecessary.

(a) In addition to any authority which is now or hereafter may 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 section.

(b) The Board of Aldermen may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, 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:

- (1) That the street improvement project does not exceed 2,000 linear feet, and
- (2) That such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvements, or
- (3) That it is in the public interest to connect two streets, or portions of a street already improved, or
- (4) 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 costs of widening and otherwise improving such streets 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.

(c) For the purpose 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.

(d) 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 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.

(e) In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board 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.

(f) 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. 2. 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 Waynesville;

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

Sec. 3. 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:

Chapter LXI, Private Laws of 1810

Chapter CLXV, Private Acts of 1832-33

Chapter 31, Private Laws of 1870-71

Chapter 116, Private Laws of 1856-57

Chapter 127, Private Laws of 1885

Chapter 132, Private Laws of 1887

Chapter 464, Public Laws of 1889

Chapter 156, Private Laws of 1893

Chapter 331, Private Laws of 1895

Chapter 119, Private Laws of 1899

Chapter 132, Private Laws of 1899

Chapter 234, Private Laws of 1899

Chapter 64, Private Laws of 1901

Chapter 71, Private Laws of 1901

Chapter 307, Private Laws of 1901

Chapter 42, Private Laws of 1903

Chapter 81, Private Laws of 1905

Chapter 88, Private Laws of 1905

Chapter 198, Private Laws of 1905
Chapter 389, Private Laws of 1905
Chapter 143, Private Laws of 1907
Chapter 628, Public Laws of 1907
Chapter 45, Private Laws of 1909
Chapter 376, Private Laws of 1909
Chapter 32, Private Laws of 1911
Chapter 72, Private Laws of 1911
Chapter 391, Private Laws of 1911
Chapter 434, Private Laws of 1911
Chapter 237, Private Laws of 1913
Chapter 416, Private Laws of 1913
Chapter 156, Private Laws of 1915
Chapter 183, Private Laws of 1915
Chapter 209, Private Laws of 1915
Chapter 231, Private Laws of 1915
Chapter 58, Private Laws of Extra Session 1920
Chapter 23, Private Laws of 1921
Chapter 243, Private Laws of 1921
Chapter 28, Private Laws of Extra Session 1921
Chapter 124, Private Laws of Extra Session 1921
Chapter 45, Private Laws of 1923
Chapter 31, Private Laws of 1929
Chapter 74, Private Laws of 1931
Chapter 288, Public-Local Laws of 1933, as to Waynesville
Chapter 31, Private Laws of 1933
Chapter 159, Private Laws of 1933, as to Waynesville
Chapter 239, Private Laws of 1935
Chapter 255, Private Laws of 1935
Chapter 122, Public-Local Laws of 1937
Chapter 379, Public-Local Laws of 1937
Chapter 105, Public-Local Laws of 1939
Chapter 749, Session Laws of 1943
Chapter 319, Session Laws of 1947
Chapter 707, Session Laws of 1947, as to Waynesville
Chapter 42, Session Laws of 1949
Chapter 309, Session Laws of 1949
Chapter 725, Session Laws of 1953
Chapter 952, Session Laws of 1953
Chapter 617, Session Laws of 1955
Chapter 618, Session Laws of 1955
Chapter 1221, Session Laws of 1955
Chapter 251, Session Laws of 1961
Chapter 110, Session Laws of 1965

Sec. 4. 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. 5. 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. 6. (a) All existing ordinances and resolutions of the Town of Waynesville and all existing rules or regulations of departments or agencies of the Town of Waynesville 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 Waynesville or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 7. 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 provisions or applications, and to this end the provisions of this act are declared to be severable.

Sec. 8. 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 the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 9. All ordinances, resolutions, orders or actions of any kind taken by the governing body of the Town of Waynesville from and after May 14, 1974, are hereby validated and ratified.

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1981.