

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 425
HOUSE BILL 1001

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

The General Assembly of North Carolina enacts:

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

"THE CHARTER OF THE TOWN OF ELLENBORO.

"ARTICLE I.

"INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

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

"Sec. 1.2. Powers. The Town of Ellenboro 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 Ellenboro, 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 Ellenboro 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 or description 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 or description of the Town shall be made.

"ARTICLE II.

"MAYOR AND TOWN COUNCIL.

"Sec. 2.1. Governing Body. The Mayor and 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 Mayor and 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 5 members, each of whom shall be elected for a term of 2 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. Mayor; Term of Office; Duties. The Mayor shall be elected in the manner provided by Article III of this Charter to serve for a term of 2 years, or until his successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Council. He shall have the right to vote only when there are an equal number of votes in the affirmative and the negative on any motion before the Council. The Mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him 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. Meetings of the Board. In accordance with applicable General Statutes, the Board 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. 2.6. 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 ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the board. The enacting clause of all town ordinances shall be: 'Be it ordained by the Board of Aldermen of the Town of Ellenboro'.

"Sec. 2.7. Voting Requirements; Quorum. Official action of the board shall be, except as provided otherwise by law, 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 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 the uniform municipal election laws of North Carolina. The Mayor and members of the Council shall be elected according to the nonpartisan plurality method of election.

"Sec. 3.2. Election of Council Members. At the regular municipal election in 1983 and biennially thereafter, all council members shall be nominated and voted upon by the voters of the Town voting at large.

"Sec. 3.3. Election of the Mayor. At the regular municipal election in 1983, and biennially thereafter, there shall be elected a Mayor to serve a term of two years. The Mayor shall be elected by the voters of the Town voting at large.

**"ARTICLE IV.
"ORGANIZATION AND ADMINISTRATION.**

"Sec. 4.1. Form of Government. The Town shall operate under the Mayor-Council form of government, in accordance with Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. Administrative Officers and Employees. Consistent with applicable State laws, the Town Council may establish positions, provide for the appointment of 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.

"Sec. 4.3. Consolidation of Administrative Functions. The Town Council may consolidate any two or more administrative positions in the Town government or may assign the functions of any position to the holder or holders of any other position, subject to the Local Government Budget and Fiscal Control Act, and other applicable State laws.

**"ARTICLE V.
"SPECIAL PROVISIONS.**

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

A. In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, the Town Council 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 Town Council 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 1,200 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 improvement, 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 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.

C. 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.

D. In addition to any authority which is now or may hereinafter be granted by general law to the Town for making sidewalk improvements, the Town Council is hereby authorized without the necessity of 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 Town Council 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 Council 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. The purpose of this act is to revise the Charter of the Town of Ellenboro 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.

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

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

Sec. 4. 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 64, Private Laws of 1889 Chapter 272, Private Laws of 1899 Chapter 224, Private Laws of 1901 Chapter 68, Private Laws of 1913 (Extra Session) Chapter 178, Private Laws of 1917 Chapter 295, Session Laws of 1953 Chapter 820, Session Laws of 1969 Chapter 5, Session Laws of 1977.

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):

(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 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:

- (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. All existing ordinances and resolutions of the Town of Ellenboro and all existing rules or regulations of departments or agencies of the Town of Ellenboro, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

Sec. 8. 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 Ellenboro or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 9. If any of this act or the applications thereof to any person or circumstance 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. 10. 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. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 12. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1983.