

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 952
HOUSE BILL 2220

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF
CASTALIA, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

CORPORATE POWERS

Section 1. Incorporation and Corporate Powers. The inhabitants of the Town of Castalia, North Carolina, within the boundaries as established in Section 3 of this Charter or as hereafter established in the manner provided by law, shall continue to be a body politic and corporate by name the Town of Castalia, and under that name shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property within or without its boundaries for any municipal purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, lease or condemnation and may sell, lease, hold, manage and control such property as its interests may require; and, as provided by general law or local act applicable to the town, the Town of Castalia shall have and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The following shall be deemed to be a part of the powers conferred upon the Town of Castalia by this Section:

- (1) To levy, assess and collect taxes within the limits prescribed by general law; and to levy and collect special assessments for benefits conferred.
- (2) To furnish all local public services; to purchase, hire, construct, own, maintain and operate or lease local public utilities; to acquire, by condemnation or otherwise, within or without the corporate limits, property necessary for any such purposes, subject to restrictions imposed by general law for the protection of other communities; and to grant local public utility franchises and regulate the exercise thereof.
- (3) To make local public improvements and to acquire, by condemnation, or otherwise, property within or without its corporate limits necessary for such improvements; and also to acquire any excess over that needed for any such improvement, and to sell or lease such excess property with restrictions, in order to protect and preserve the improvement.
- (4) To issue in the case of a public utility, if deemed desirable by the town, a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate such utility.
- (5) To organize and administer public libraries.

- (6) To adopt and enforce within its limits local police, sanitary and other similar regulations not in conflict with general laws.

Except as otherwise provided in this act the board of commissioners shall have authority to determine by whom and in what manner the powers granted by this Section shall be exercised.

Sec. 2. Enumerated Powers Not Exclusive. The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive. All powers of the town, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed therein, then in the manner provided by ordinance or resolution of the board of commissioners.

Sec. 3. Corporate Limits. The corporate limits of the town shall be as they exist at the time of ratification of this act, until changed in accordance with law, and shall be as designated in the official map of the Town of Castalia, a copy of which is to be permanently retained in the Town Office.

BOARD OF COMMISSIONERS

Sec. 4. Creation, Salary and Composition of Mayor and Board of Commissioners. (a) Except as otherwise provided in this Charter all powers of the town shall be vested in a board of commissioners of five members and a mayor elected at large by all the qualified voters of the Town of Castalia in the manner hereinafter provided. Elections shall be conducted on the nonpartisan plurality method as set out in G.S. 163-294.

(b) The board of commissioners shall consist of the present five members until the organizational meeting after the regular municipal election in November 1989. As provided by G.S. 160A-68, the date for the organizational meeting shall be set by the Board to be not earlier than the time the election results are certified and not later than the first regular meeting in December. In the regular municipal election held in November 1989, the qualified voters of the Town of Castalia shall elect five members of the board of commissioners and a mayor. The two candidates who receive the most votes shall serve a four-year term. The other three commissioners elected shall serve a two-year term. The mayor shall serve a four-year term. In 1991 and quadrennially thereafter, three commissioners shall be elected for four-year terms. In 1993 and quadrennially thereafter, two commissioners and a mayor shall be elected for four-year terms. Terms of office shall begin at the organizational meeting provided under G.S. 160A-68 of the board of commissioners following the regular municipal election. If a vacancy occurs in the office of mayor or commissioner, the board of commissioners, by majority vote, shall appoint any qualified voter of the Town of Castalia, including a member of the board of commissioners in case the vacancy is that of mayor, to fill the vacancy until the next municipal election. At such election, the qualified voters of the Town of Castalia shall elect a qualified voter to fill any remaining term, or if there is no remaining term, to a four-year term. Each member of the board of commissioners and the mayor shall receive a salary, the amount of which shall be prescribed by ordinance. Members of the board of commissioners and the mayor shall be qualified voters of the town. A member of the board of commissioners or the mayor ceasing to possess any of the qualifications specified herein shall immediately forfeit his or her office.

Sec. 5. Meeting of the Board of Commissioners. At the organizational meeting following a regular municipal election the board of commissioners shall meet at the usual place for holding its meetings and the newly elected members shall assume the duties of their office after taking their required oaths. Thereafter the board of commissioners shall meet at such times as may be prescribed by ordinance or resolution, but not less than once a month. Special meetings shall be called by the clerk upon written request of the mayor, the mayor pro tem, or any two members of the board of commissioners. Notice of the special meeting shall be as prescribed by the general laws of North Carolina, and shall state the subject to be considered at the meeting and no other subject shall be considered. All meetings of the board of commissioners shall be open to the public as provided by law and the rules of the board of commissioners shall provide that citizens of the town shall have a reasonable opportunity to be heard at any such meeting in regard to matters considered at the meeting.

Sec. 6. Mayor and Mayor Pro Tem. At its organizational meeting following a regular municipal election the board of commissioners shall choose one of its members as vice-chairman, who shall act as mayor pro tem. The mayor shall preside at meetings of the board of commissioners and shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him by the general laws of North Carolina, by this Charter and the ordinances of the town. He shall be recognized as the head of the town government for all ceremonial purposes, by the courts for serving civil process, and the Governor for purposes of military law. In time of public danger or emergency the mayor shall, if so authorized and directed by vote of the board of commissioners, take command of the police, maintain order and enforce the law. In case of the absence or disability of the mayor, the mayor pro tem shall act as mayor during the continuance of the absence or disability.

Sec. 7. Quorum. No official meeting may be held unless a quorum is present. A quorum is a number equal to a majority of the actual membership of the board plus the mayor, and excluding vacant seats. However, a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. No member shall be excused from voting except on matters involving the consideration of his own official conduct or when his financial interests are involved.

Sec. 8. Introduction and Passage of Ordinances and Resolutions. Ordinances and resolutions shall be introduced in the board of commissioners only in written or printed form. All ordinances, except ordinances making appropriations and ordinances codifying or rearranging existing ordinances or enacting a code of ordinances, shall be confined to one subject, and the subject, or subjects of all ordinances shall be clearly expressed in the title. Ordinances making appropriations shall be confined to the subject of appropriations. The yeas and nays shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the board of commissioners.

Sec. 9. Except as otherwise prescribed in this Charter, all other ordinances and resolutions passed by the board of commissioners shall take effect at the time indicated therein.

Sec. 10. Authentication and Publication of Ordinances and Resolutions. Upon its final passage each ordinance or resolution shall be authenticated by the signature of the mayor and the town clerk and shall be recorded in a book kept for that purpose. Within ten days after final passage, a notice setting forth in brief the substance of each ordinance shall be published or posted at least once in such manner as the board of commissioners may prescribe.

ADMINISTRATIVE SERVICE

Sec. 11. Appointment of Officers and Employees. The board of commissioners may appoint a town clerk, a treasurer, a tax collector, an accountant, a town attorney, a chief of police, a fire chief, and such other officers and employees as may be necessary, none of whom need be a resident of the town at the time of appointment: Provided, that the board of commissioners may appoint one person to fill any two or more such positions, provided that it is not in conflict with the general laws of North Carolina. Such employees or officers shall serve at the pleasure of the board of commissioners, and shall perform such duties as may be prescribed by the board of commissioners. The board of commissioners shall fix all salaries, prescribe bonds and require such oaths as they may deem necessary.

Sec. 12. Town Clerk. The board of commissioners shall choose a town clerk. The town clerk shall keep the records of the board of commissioners and perform such other duties as may be required by law or the board of commissioners.

Sec. 13. Duties of Town Attorney. The attorney shall be a qualified attorney at law who shall practice in the State of North Carolina. He shall be the chief legal adviser of and attorney for the town and all departments and officers thereof in matters relating to their official powers and duties. It shall be his duty to perform all services incident to the department of law; to attend all meetings of the board of commissioners; to give advice in writing, when so requested, to the board of commissioners or the director of any department; to prosecute or defend as the case may be, all suits or cases to which the town may be a party; to prepare all contracts, bonds and other instruments in writing in which the town is concerned, and to endorse on each his approval of the form and correctness thereof; and to perform such other duties of a legal nature as the board of commissioners may require. In addition to the duties imposed upon the town attorney by this Charter or required of him by ordinance or resolution of the board of commissioners he shall perform any duties imposed upon the chief legal officers of municipalities by law.

Sec. 14. Duties of Town Tax Collector. Tax collector shall collect all taxes, licenses, fees, and other moneys belonging to the town government subject to the provisions of this Charter and ordinances enacted thereunder, and he shall diligently comply with and enforce the general laws of North Carolina relating to the collection, sale and foreclosure of taxes by municipalities. It shall be the duty of the tax collector to deposit daily in the town depository all money belonging to the town.

Sec. 15. Duties of Town Treasurer. The treasurer, if any, shall have custody of and shall disburse all moneys belonging to the town government subject to the provisions of this Charter and ordinances enacted thereunder; shall have custody of all

investments and invested funds of the town or in possession of the town in a fiduciary capacity, and shall keep a record of such investments.

Sec. 16. Custody of Town Money. All money received by any department or agency of the town for or in connection with the business of the town government shall be paid promptly into the town depository. Such institution shall be designated by the board of commissioners in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance. All interest on moneys belonging to the town shall accrue to the benefit of the town government.

Sec. 17. Issuance of Bonds. The town may issue bonds for the purpose and in the manner prescribed by the general laws of North Carolina for the issuance of bonds by municipalities.

Sec. 18. Independent Audit. As soon as practicable after the close of each fiscal year, an independent audit shall be made of all accounts of the town government by qualified public accountants, selected by the board of commissioners, who have no personal interest directly or indirectly in the financial affairs of the town government or of any of its officers. The results of this audit shall be published immediately upon completion.

MISCELLANEOUS PROVISIONS

Sec. 19. Publicity of Records. Except as restricted by law, all records and accounts of every office and department of the town shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under reasonable regulations established by the board of commissioners.

Sec. 20. Oath of Office. Every officer of the town shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the town clerk.

"I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of North Carolina; that I will, in all respects observe the provisions of the Charter and ordinances of the Town of Castalia and will faithfully discharge the duties of the office of"

Sec. 21. Continuance of Contracts. All contracts entered into by the town, or for its benefit, prior to the taking effect of this Charter, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or charter provisions existing at the time this Charter takes effect may be carried to completion in accordance with the provisions of such existing laws and charter provisions.

Sec. 22. Saving Clause. If any part of this Charter shall be declared invalid by a court of competent jurisdiction, such judgment shall not invalidate the remainder of the Charter. The provisions of this Charter shall supersede all laws and ordinances not consistent herewith, insofar as the Town of Castalia is affected thereby.

Sec. 23. Chapter 716, Session Laws of 1959, except for Section 33, is repealed.

Sec. 24. This act is effective upon ratification, provided that the mayor and board of commissioners in office at the time this Charter takes effect shall continue in office until their successors are elected and qualified as specified herein.

In the General Assembly read three times and ratified this the 24th day of June, 1988.