

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 983
HOUSE BILL 2187

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF
CLAYTON.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Clayton is revised and consolidated to read:

"THE CHARTER OF THE TOWN OF CLAYTON

"ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES

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

"Sec. 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges and immunities conferred upon the Town of Clayton specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Sec. 1.3. **Corporate Limits.** The corporate limits are those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town showing the current 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 shall be made and copies shall be filed in the office of the Secretary of State, the Johnston County Register of Deeds and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY

"Sec. 2.1. **Mayor and Council.** The Mayor and Town Council, hereinafter referred to as the 'Council', shall be the governing body of the Town.

"Sec. 2.2. **Council; Composition; Terms of Office.** The Council shall be composed of five members elected by all the qualified voters of the Town for staggered terms of four years.

"Sec. 2.3. **Mayor; Term of Office; Duties.** The Mayor is elected by all the qualified voters of the Town for a term of two years; is the official head of the Town government and presides at meetings of the Council; shall have the right to vote only when there is an equal division on any question or matter before the Council; and shall exercise the powers and duties conferred by law or as directed by the Council.

"Sec. 2.4. **Mayor Pro Tempore.** The Council shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the other members of the Council.

"Sec. 2.5. **Meetings.** In accordance with general law, the Council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Sec. 2.6. **Voting Requirements; Quorum.** Official actions of the Council and all votes shall be taken in accordance with applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Sec. 2.7. **Compensation; Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Council members shall be in accordance with general law. Vacancies that occur in any elective office of the Town shall be filled by appointment as provided in G.S. 160A-63.

"ARTICLE III. ELECTIONS

"Sec. 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections are conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

"Sec. 3.2. **Election of Council Members.** The Council members serving on the date of ratification of this Charter shall serve until the expiration of their term or until their successors are elected and qualified. In the regular municipal election in 1989, and every four years thereafter, there shall be elected three Council members to serve as provided in Article II of this Charter. In the regular municipal election in 1991, and every four years thereafter, there shall be elected two Council members to serve as provided in Article II.

"Sec. 3.3. **Election of Mayor.** A Mayor shall be elected in each regular municipal election.

"Sec. 3.4. **Special Elections and Referendums.** Special elections and referendums may be held only as provided by general law or applicable local acts of the General Assembly.

"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 G.S. Chapter 160A, Article 7, Part 2.

"Sec. 4.2. **Town Manager.** The Council shall appoint a Town Manager who is responsible for the administration of all departments of the Town government. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter.

"Sec. 4.3. **Town Clerk.** The Council shall appoint a Town Clerk to keep a journal of the proceedings of the Council; to maintain official records and documents; to give notice of meetings; and to perform such other duties required by law or as the Council may direct.

"Sec. 4.4. **Tax Collector.** The Council shall appoint a Tax Collector, who may be the Johnston County Tax Collector, to collect all taxes owed to the Town, subject to general law, this Charter and Town ordinances.

"Sec. 4.5. **Town Finance Officer.** The Town Manager shall appoint a Finance Officer to perform the duties required by law or as the Council may direct, or the Council may at its election confer the duties of Finance Officer on the Town Manager as Budget Officer. The Finance Officer may be entitled 'Accountant,' 'Treasurer,' 'Finance Director,' 'Finance Officer' or any other reasonably descriptive title.

"Sec. 4.6. **Town Attorney.** The Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials and perform other duties required by law or as the Council may direct.

"Sec. 4.7. **Other Administrative Officers and Employees.** The Council may authorize additional offices and positions, to be filled by appointment of the Town Manager. The Council may organize the Town government as deemed appropriate, including combining any of the offices provided for in this Article, subject to the requirements of general law.

"ARTICLE V. SPECIAL ASSESSMENT PROVISIONS

"Sec. 5.1. Assessment for Street Improvements; Petition Unnecessary.

(a) In addition to any authority granted by general law, the Council is hereby authorized to order street improvements and to assess the costs thereof against abutting property in accordance with the provisions of this Article.

(b) The Council may order street improvements and assess the total costs thereof against abutting property, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of G.S. Chapter 160A without the necessity of a petition, upon the following findings of 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 or creates a safety or health hazard 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 a 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, as applied to the particular street or part thereof.

(c) For the purposes of this Article, the term 'street improvement' includes grading, regrading, surfacing, resurfacing, widening, paving, repaving, acquisition of right-of-way and construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 5.2. Assessments for Sidewalk Improvement; Petition Unnecessary. In addition to any authority granted by general law, the Council is hereby authorized, without the necessity of petition, to order sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total costs thereof against abutting property, according to one or more of the assessment bases set forth in Article 10 of G.S. Chapter 160A; provided that regardless of the assessment basis or bases employed, the Council may order the costs of sidewalk improvements made only on one side of a street to be assessed against property abutting both sides of such street.

"Sec. 5.3. Procedure; Effect of Assessments. In ordering street and sidewalk improvements without a petition and assessing the costs thereof under authority of this Article, the Council shall comply with the procedures required by Article 10 of G.S. Chapter 160A, except those provisions relating to petitions of property owners and sufficiency thereof. The effect of the act of levying assessments under authority of this Article shall be the same as if assessments were levied under authority of Article 10 of G.S. Chapter 160A."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Clayton and to consolidate 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 expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Sec. 3. This act does not repeal or affect any acts concerning the property, affairs or government of public schools, or acts validating official actions, proceedings, contracts or obligations of any kind.

Sec. 4. All local acts in conflict with this act are repealed. The following acts having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

- Chapter 262, Private Laws of 1899
- Chapter 159, Private Laws of 1911
- Chapter 19, Private Laws Extra Session of 1913
- Chapters 37, Private Laws of 1915
- Chapter 69, Private Laws of 1919
- Chapter 378, Public-Local Laws of 1937
- Chapter 391, Public-Local Laws of 1941
- Chapter 872, Session Laws of 1949
- Chapter 873, Session Laws of 1949
- Chapter 653, Session Laws of 1951
- Chapter 676, Session Laws of 1955
- Chapter 428, Session Laws of 1955
- Chapter 397, Session Laws of 1955
- Chapter 376, Session Laws of 1963
- Chapter 257, Session Laws of 1969, as to Clayton only
- Chapter 516, Session Laws of 1973.

Sec. 5. The Mayor and council members serving on the date of ratification of this act shall serve until the expiration of their term. Thereafter, those offices shall be filled as provided in Articles II and III of the Charter contained in Section 1 of this act.

Sec. 6. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Sec. 7. All existing ordinances, resolutions and other provisions of the Town of Clayton not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Sec. 8. No action or proceeding pending on the effective date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

Sec. 9. If any provision or application of this act 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 the particular provision of the General Statutes, and such provision is later amended, superseded or recodified, 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 superseded or recodified.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of June, 1988.