

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 154

Short Title: Gastonia Charter Revisions. (Local)

Sponsors: Representative Bumgardner.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government I, if favorable, Finance

February 22, 2017

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF GASTONIA.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Gastonia is revised and consolidated to read:

"THE CHARTER OF THE CITY OF GASTONIA.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The City of Gastonia, North Carolina, in Gaston County and its inhabitants shall continue to be a municipal body politic and corporate, under the name of the "City of Gastonia," hereinafter also referred to as the "City."

"Sec. 1.2. **Powers.** The City has and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the City of Gastonia 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 City and as they may be altered from time to time in accordance with law. An official map of the City, showing the current boundaries, is maintained permanently in the office of the City Clerk and is available for public inspection. Within a reasonable time upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map shall be made and copies of the changes shall be filed in the Office of the Secretary of State, the Gaston County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Sec. 2.1. **Mayor and City Council.** The Mayor and the City Council comprise the governing body of the City. The City Council is referred to hereinafter as the "Council."

"Sec. 2.2. **City Council Composition; Terms of Office.** The Council is composed of six members who reside in the respective wards as provided in Article III of this Charter, but who are elected by all the qualified voters of the City for terms of four years or until their successors are elected and qualified. The three Council members elected from Wards 1, 2, and 5 in 2017 shall serve for terms of four years, and the three Council members elected from Wards 3, 4, and 6 in 2019 shall serve for terms of four years.

"Sec. 2.3. **Mayor; Term of Office; Duties.** The Mayor is elected by all the qualified voters of the City for a term of two years or until a successor is elected and qualified. The Mayor is the official head of the City government and presides at meetings of the Council, has the right to vote on all matters before the Council, but is not required to vote except when the Mayor's vote is necessary for determinative action. The Mayor exercises powers and duties conferred by law or as



1 directed by the Council. Failure of the Mayor to vote when present, or when the Mayor has not
2 been excused, on any such matter when the Mayor's vote is required by this section, is deemed an
3 affirmative vote and shall be so recorded.

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

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

11 "Sec. 2.6. **Voting Requirements; Quorum.** Unless otherwise stated herein, official actions of
12 the Council and all votes are taken in accordance with the applicable provisions of general law,
13 particularly G.S. 160A-75. A quorum is as provided in G.S. 160A-74.

14 "Sec. 2.7. **Compensation; Qualifications for Office; Vacancies.** The compensation and
15 qualifications of the Mayor and Council are in accordance with general law. Vacancies that occur
16 in any elective office of the City are filled as provided in G.S. 160A-63.

17 "ARTICLE III. ELECTIONS.

18 "Sec. 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each
19 odd-numbered year in accordance with the uniform municipal election laws of North Carolina.
20 Elections are conducted on a nonpartisan basis and the results determined using the nonpartisan
21 plurality method as provided in G.S. 163-292. For purpose of election of Council members, the
22 City is divided into six geographical subdivisions known as wards, provided that all qualified
23 voters of the City may cast a vote for each seat. The wards are numbered from one to six and are
24 as shown on the existing official map of the City or of the election wards, as they may be revised
25 from time to time.

26 "Sec. 3.2. **Election of Council.** All Council members elected shall serve for terms of four
27 years as elected in staggered biennial elections. The three Council members elected from Wards 1,
28 2, and 5 in 2017 shall serve for terms of four years, and the three Council members elected from
29 Wards 3, 4, and 6 in 2019 shall serve for terms of four years. Each Council member shall be a
30 resident of the ward he or she represents.

31 "Sec. 3.3. **Election of Mayor.** A Mayor shall be elected every two years, beginning in
32 November 2017, in each regular municipal election.

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

35 "ARTICLE IV. ORGANIZATION AND ADMINISTRATION, CITY MANAGER.

36 "Sec. 4.1. **Form of Government.** The City operates under the council-manager form of
37 government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

38 "Sec. 4.2. **City Manager.** The Council appoints a City Manager who is responsible for the
39 administration of all departments of the City government. The City Manager has all the powers
40 and duties conferred by general law, except as expressly limited by the provisions of this Charter,
41 and the additional powers and duties conferred by the Council, so far as authorized by general law.
42 The Council shall hold the City Manager responsible for the proper management of the affairs of
43 the City, and the City Manager shall keep the Council informed of the needs and conditions of the
44 City and shall make such reports and recommendations as may be requested by the Council or as
45 the City Manager deems necessary. Neither the Mayor, the City Council, or any member of the
46 City Council shall publicly or privately direct the conduct or activities of any City employee,
47 either directly or indirectly, except through the City Manager.

48 "Sec. 4.3. **Approval and Execution of Contracts.** The Council may adopt an ordinance that
49 delegates to the City Manager the authority to award, approve, and execute certain contracts, as
50 reviewed by the City Attorney, on behalf of the City. This authority of the City Manager to award,
51 approve, and execute certain contracts shall be subject to the terms, conditions, and limitations as

1 set forth by the Council in the ordinance, and the ordinance shall require that all contracts
2 awarded, approved, and executed pursuant to that authority be reported by the City Manager to the
3 Council in a timely manner.

4 "Sec. 4.4. **Settlement of Claims.** The City Manager may, upon written recommendation of the
5 City Attorney, execute releases of persons, firms, and corporations for damages to personal
6 property belonging to the City, when the full amount of damages to the property has been
7 ascertained and that amount has been paid in full to the City.

8 The Council may adopt an ordinance that delegates to the City Manager the authority, upon
9 written recommendation from the City Attorney, to approve settlements on behalf of the City in all
10 claims or lawsuits of any kind or nature involving the City, including land condemnation lawsuits,
11 and to execute any and all documents necessary for the settlement of those claims or lawsuits,
12 when the monetary amount involved does not exceed an amount set forth by the Council in the
13 ordinance. All such settlements shall be reported to the City Council in a timely manner and shall
14 be subject to the applicable provisions of the Public Records law as set forth in Chapter 132 of the
15 General Statutes.

16 "ARTICLE V. OTHER OFFICES AND POSITIONS.

17 "Sec. 5.1. **City Attorney.** The Council shall appoint a City Attorney licensed to practice law in
18 North Carolina. It is the duty of the City Attorney to represent the City, advise City officials, and
19 perform other duties required by law, or as the Council may direct. The Council may appoint or
20 provide for one or more associate or assistant city attorneys who shall receive such compensation
21 as may be fixed by the Council and who shall have full authority to exercise and perform any of
22 the powers and duties of the City Attorney that may be specified by the Council or the City
23 Attorney.

24 "Sec. 5.2. **City Clerk.** The Council shall appoint a City Clerk to keep a journal of the
25 proceedings of the Council, to maintain official records and documents, to give notice of meetings,
26 and to perform such other duties required by law, or as the City Manager may direct. The City
27 Clerk shall report to the City Manager.

28 "Sec. 5.3. **Tax Collector.** The Council shall appoint a Tax Collector pursuant to G.S. 105-349
29 to collect all taxes owed to the City, subject to general law, this Charter, and City ordinances.
30 Pursuant to an interlocal agreement as authorized by general law, the Council may appoint the Tax
31 Collector of Gaston County as the City's Tax Collector.

32 "Sec. 5.4. **Other Administrative Officers and Employees.** The Council may authorize other
33 positions to be filled by appointment by the City Manager, and may organize the City government
34 as deemed appropriate, subject to the requirements of general law.

35 "ARTICLE VI. PUBLIC IMPROVEMENTS.

36 "Sec. 6.1. **Planting Strip and Driveway Maintenance.** It is the responsibility of the abutting
37 property owner to maintain any property or driveway between the property line and the edge of the
38 pavement or the curb of a paved street.

39 "ARTICLE VII. HOUSING MATTERS.

40 "Sec. 7.1. **Gastonia Fair Housing Act.** The Gastonia Fair Housing Act shall continue as
41 authorized by Chapter 902, Session Laws of 1985, as amended by Chapter 931, Session Laws of
42 1987, and Chapter 510, Session Laws of 1989.

43 "Sec. 7.2. **Designation of Rental Property Owner's Agent for Service of Process.** The City
44 Council may, by ordinance, require that each owner of rental property within the city authorize a
45 person residing in Gaston County to serve as the owner's agent for the purpose of accepting
46 service of process in an action involving a violation of an ordinance adopted under Part 5 or 6 of
47 Article 19 of Chapter 160A of the General Statutes. The owner shall provide, on a form supplied
48 by the City, the authorized agent's name, address, and phone number and shall notify the City of
49 any changes in the information provided not more than 10 days after such changes occur. Nothing
50 in this section shall require an owner to designate an agent to accept service of process where the
51 owner of the rental property resides within Gaston County.

1 "ARTICLE VIII. MISCELLANEOUS PROVISIONS.

2 "Sec. 8.1. **Alcoholic Beverages.** The City of Gastonia Board of Alcoholic Beverage Control
3 shall consist of five members appointed for three-year overlapping terms as originally authorized
4 by Chapter 910, Session Laws of 1971, before the effective date of Chapter 18B of the General
5 Statutes. Otherwise, the City of Gastonia Board of Alcoholic Beverage Control shall be subject to
6 the provisions of Article 7 of Chapter 18B of the General Statutes of North Carolina.

7 "Sec. 8.2. **Lease of City Property.** As originally authorized by Chapter 910, Session Laws of
8 1971, notwithstanding the provisions of G.S. 160A-272, the Council may lease property owned by
9 the City for a period not to exceed 15 years without following the procedures authorized for the
10 sale of real property.

11 "Sec. 8.3. **Organization, Operation, and Dissolution of Municipal Bodies.** The Council
12 shall have the authority to provide for the organization, operation, and dissolution of all
13 governmental bodies of the City, except as limited by law.

14 "Sec. 8.4. **Annexation Agreements.** In addition to the authority contained in general law, the
15 City may enter into annexation agreements with other municipalities as authorized by Chapter
16 204, Session Laws of 1987. To that end, the two shall be considered concurrent sources of
17 authority."

18 **SECTION 2.** The purpose of this act is to revise the Charter of the City of Gastonia
19 and to consolidate certain acts concerning the property, affairs, and government of the City. It is
20 intended to continue without interruption those provisions of prior acts that are expressly
21 consolidated into this act, so that all rights and liabilities that have accrued are preserved and may
22 be enforced.

23 **SECTION 3.** The following acts, having served the purposes for which they were
24 enacted or having been consolidated into this act, are expressly repealed:

25 Section 1 of Chapter 557 of the Session Laws of 1991.

26 Section 2 of Chapter 320 of the Session Laws of 1995.

27 **SECTION 4.** This act does not affect any rights or interests that arose under any
28 provisions repealed by this act.

29 **SECTION 5.** All existing ordinances, resolutions, and other provisions of the City of
30 Gastonia, not inconsistent with the provisions of this act, shall continue in effect until expressly
31 repealed or amended.

32 **SECTION 6.** No action or proceeding pending on the effective date of this act, by or
33 against the City or any of its departments or agencies, is abated or otherwise affected by this act.

34 **SECTION 7.** If any provision or application of this act is held invalid, such invalidity
35 shall not affect other provisions or applications of this act that can be given effect without the
36 invalid provision or application, and to this end, the provisions of this act are declared to be
37 severable.

38 **SECTION 8.** Whenever a reference is made in this act to a particular provision of the
39 General Statutes, and such provision is later amended, superseded, or recodified, the reference
40 shall be deemed amended to refer to the amended General Statute, or to the General Statute that
41 most clearly corresponds to the statutory provision that is superseded or recodified.

42 **SECTION 9.** This act is effective when it becomes law.