

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 324
HOUSE BILL 486

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

The General Assembly of North Carolina do enact:

CORPORATE POWERS

Section 1. Incorporation and Corporate Powers. The inhabitants of the Town of Elon College, 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 Elon College, 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, except as prohibited by the Constitution of North Carolina or restricted by this Charter, the Town of Elon College 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 Elon College by this Section:

(1) To levy, assess and collect taxes and to borrow money 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 an 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 organize and administer public libraries.

(5) To adopt and enforce within its limits local police, sanitary and other similar regulations not in conflict with general laws: Provided, that the jurisdiction, power and

authority of the police officers of the Town of Elon College is hereby extended outside of and beyond the corporate limits of the Town of Elon College as now or hereafter fixed for a distance of one mile in all directions except that this jurisdiction shall not extend into the corporate boundaries of any other municipality.

Except as otherwise provided in this Act the board of aldermen 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 but, in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the Town of Elon College shall have, and may exercise, all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate. 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 aldermen.

Sec. 3. Corporate Limits. The corporate limits of the Town of Elon College shall be as follows:

BEGINNING at an iron stake in the northeast corner of the cemetery of the Town of Elon College, in the middle of the main track of the North Carolina Railway (now leased to the Southern Railway Company), 1,800 feet East of the 17th mile post of said railway and running thence North 2 degrees 17 minutes East 1,800.0 feet to a concrete monument; thence North 87 degrees 43 minutes West 4,900.0 feet to a concrete monument; thence South 2 degrees 17 minutes West 2,800.0 feet to a concrete monument; thence South 87 degrees 43 minutes East 1,490.6 feet to an iron stake in the western right-of-way line of Williamson Avenue; thence with the western right-of-way line of Williamson Avenue South 23 degrees 55 minutes West 370.6 feet to an iron stake; thence South 66 degrees 10 minutes East 249.0 feet to an iron stake; thence North 24 degrees 48 minutes East 100.0 feet to an iron stake; thence South 64 degrees 45 minutes East 1,587.4 feet to an iron stake; thence North 8 degrees 17 minutes East 565.5 feet to an iron stake; thence South 79 degrees 13 minutes East 1,065.0 feet to a concrete monument on the East side of a branch; thence South 4 degrees 34 minutes West 550.0 feet to a concrete monument on the East side of said branch; thence South 25 degrees 19 minutes West 380.0 feet to a concrete monument on the East side of said branch; thence South 21 degrees 31 minutes East 350.0 feet to a concrete monument on the East side of said branch; thence South 2 degrees 56 minutes East 387.0 feet to a concrete monument on the East side of said branch; thence South 13 degrees 44 minutes West 604.0 feet to a concrete monument on the East side of said branch; thence South 5 degrees 25 minutes West 623.5 feet to a concrete monument on the West side of said branch; thence South 83 degrees 16 minutes East 199.7 feet to a concrete monument; thence South 7 degrees 07 minutes West 250.0 feet to a concrete monument; thence South 86 degrees 23 minutes East 247.2 feet to a concrete monument; thence North 3 degrees 37 minutes East 400.0 feet to a concrete monument; thence South 86 degrees 23 minutes East 310.0 feet to a concrete monument, a corner with the Alamance Country Club; thence North 8

degrees 43 minutes East with the line of the said Country Club, 3,413.0 feet to an iron stake in the center of Oak Avenue; thence with the center of said Oak Avenue North 78 degrees 30 minutes West 100.0 feet to an iron stake; thence still with the center of Oak Avenue North 74 degrees 27 minutes West 81.1 feet to an iron stake; thence still with the center of Oak Avenue North 66 degrees 24 minutes West 100.0 feet to an iron stake; thence North 2 degrees 17 minutes East 788.3 feet to the point of the BEGINNING.

BOARD OF ALDERMEN

Sec. 4. Creation, Salary and Composition of Mayor and Board of Aldermen. Except as otherwise provided in this Charter all power of the town shall be vested in a board of aldermen of five members and a mayor nominated and elected from the town at large in the manner hereinafter provided. At the regular municipal election for the office of mayor and members of the board of aldermen to be held in May, 1962, the two aldermen receiving the highest number of votes shall be elected and shall serve for terms of four years or until their successors are duly elected and qualified, and the three aldermen receiving the next highest number of votes shall be elected and shall serve for a term of two years or until their successors are duly elected and qualified. Thereafter, all aldermen elected at general municipal elections shall serve for four-year terms or until their successors are duly elected and qualified. The mayor shall continue to be elected for a two-year term or until his successor is duly elected and qualified. If a vacancy occurs in the office of mayor or aldermen, it shall be filled for the remainder of the unexpired term by a majority vote of the remaining members of the board of aldermen. Each member of the board of aldermen shall receive a salary, the amount of which shall be prescribed by ordinance. Provided, however, that the present mayor and members of the board of aldermen shall continue to receive the same salary until the same is changed as herein outlined, No ordinance fixing or changing the salary of members of the board of aldermen shall become effective during the current term of office of the members of the board of aldermen enacting such ordinance. Members of the board of aldermen shall be qualified electors of the town. A member of the board of aldermen ceasing to possess any of the qualifications specified in this Section, or convicted of a felony while in office, shall immediately forfeit his office.

Sec. 5. Meetings of the Board of Aldermen. Following a regular municipal election the board of aldermen shall meet within five days at the usual place for holding its meetings and the newly elected members shall assume the duties of office. Thereafter the board of aldermen shall meet at such time as may be prescribed by ordinance or resolution, but not less frequently than once each month. Special meetings shall be called by the clerk upon the written request of the mayor or two members of the board of aldermen. Any such notice shall state the subject to be considered at the special meeting and no other subject shall be there considered. All meetings of the board of aldermen and of committees thereof shall be open to the public, and the rules of the board of aldermen shall provide that citizens of the town shall have a reasonable opportunity to be heard at any such meetings in regard to any matter considered thereat.

Sec. 6. Mayor and Mayor Pro Tem. At its first meeting in the month of May following a regular municipal election the board of aldermen 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 aldermen and shall exercise such other powers and perform such other duties as are now or may hereafter 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 processes, and by 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 aldermen, 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. Board of Aldermen, Rules. The board of aldermen shall be the judge of the election and qualifications of its members and the mayor, and in such cases shall have the power to subpoena witnesses and compel the production of all pertinent books, records, and papers; but the decision of the board of aldermen in any such case shall be subject to review by the courts. The board of aldermen shall determine its own rules and order of business and keep a journal of its proceedings.

Sec. 8. Board of Aldermen, Quorum. A majority of the members elected to the board of aldermen shall constitute a quorum to do business, but 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. The affirmative vote of a majority of the members elected to the board of aldermen shall be necessary to adopt any ordinances, resolutions, order or vote; except that a vote to adjourn, or regarding the attendance of absent members, may be adopted by a majority of the members present.

Sec. 9. Introduction and Passage of Ordinances and Resolutions. Ordinances and resolutions shall be introduced in the board of aldermen in written or oral 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 aldermen. The enacting clause of all ordinances shall be: "Be it ordained by the Board of Aldermen of the Town of Elon College as follows."

Sec. 10. When Ordinances and Resolutions Take Effect; Emergency Measures. Ordinances making the annual tax levy, appropriation ordinances, ordinances and resolutions pertaining to local improvements and assessments, ordinances and resolutions providing for or directing any investigation of town affairs, resolutions requesting information from administrative officers or directing administrative action, and emergency measures shall take effect at the time indicated therein. Except as otherwise prescribed in this Charter, all other ordinances and resolutions passed by the board of aldermen shall take effect at the time indicated therein, but not less than thirty days from the date of their passage. An emergency measure is an ordinance or resolution to provide for the immediate preservation of the public peace, property, health or safety, in which the emergency claimed is set forth and defined in a preamble thereto. The affirmative vote of at least four members of the board of aldermen shall be

required to pass any ordinance or resolution as an emergency measure. No measure making or amending a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure. No situation shall be declared an emergency by the board of aldermen except as defined in this Section, and it is the intent of this Charter that such definition shall be strictly construed by the courts.

Sec. 11. 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.

NOMINATIONS AND ELECTIONS

Sec. 12. Municipal Elections. The regular election for the choice of mayor and members of the board of aldermen shall be held on Tuesday following the first Monday in May in even numbered years. The board of aldermen may by resolution order a special election, fix the time for holding the same, and provide all means for holding such special election.

Sec. 13. Nominations for Municipal Office. Nominations for the office of mayor and members of the board of aldermen in accordance with the provisions of Section 4 of this Charter, shall be made at a public meeting which shall be held at the time and place designated by the board of aldermen, provided such meeting is held not more than forty days or less than fourteen days prior to the date of the regular election for mayor and members of the board of aldermen. Notice of such special meeting called for the purpose of nominating candidates for the office of mayor and members of the board of aldermen shall be published at least twice for two consecutive weeks prior to the date of such meeting in a newspaper having general circulation within the Town of Elon College.

Sec. 14. Regulation of Elections. All elections shall be conducted in accordance with the general State laws relating to municipal elections, except as otherwise provided herein.

Sec. 15. Ballots. The full names of candidates nominated for mayor or board of aldermen in accordance with the provisions of this Charter, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots in the alphabetical order of the surnames in rotation without any party designation. There shall be printed as many sets of ballots as there are candidates. Each set of ballots shall begin with the name of a different candidate, the other names being arranged thereafter in regular alphabetical order, commencing with the name next in alphabetical order after the one that stands first on such set of ballots. When the last name is reached in alphabetical order it shall be followed by the name that begins with the first letter represented in the list of names and by the others in regular order.

Sec. 16. Election of Mayor and Board of Aldermen. All members of the board of aldermen shall be elected at large. Every voter shall be entitled to vote for one candidate for mayor and for as many candidates as there are members to be elected to the board of aldermen. All candidates up to the number to be elected, who receive the largest number of votes shall be declared elected.

ADMINISTRATIVE SERVICE

Sec. 17. Appointment of Officers and Employees. The board of aldermen 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 aldermen may appoint one person to fill any two or more such positions. Such employees or officers shall serve at the pleasure of the board of aldermen, and shall perform such duties as may be prescribed by the board of aldermen. The board of aldermen shall fix all salaries, prescribe bonds and require such oaths as they may deem necessary.

Sec. 18. Town Clerk. The board of aldermen shall choose a town clerk. The town clerk shall keep the records of the board of aldermen and perform such other duties as may be required by law or the board of aldermen.

Sec. 19. Duties of Town Attorney. The attorney shall be an attorney at law who is licensed by the State of North Carolina. He shall be the chief legal advisor 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, either personally or by such assistants as he may designate, to perform all services incident to the department of law; to attend all meetings of the board of aldermen; to give advice in writing, when so requested, to the board of aldermen 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 aldermen 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 aldermen, he shall perform any duties imposed upon the chief legal officers of municipalities by law.

Sec. 20. Duties of Town Accountant. The town accountant with the budget committee shall prepare the budget in accordance with the general local government laws of North Carolina relating to the preparation of municipal budgets. He shall have authority and shall be required: To maintain accounting control over the finances of the town government, for which purpose he is empowered to operate a set of general accounts embracing all the financial transactions of the town, and such subsidiary accounts and cost records as may be required by ordinance or by the board of aldermen for purposes of administrative direction and financial control; to make monthly reports on all receipts and expenditures of the town government to the mayor and board of aldermen and take monthly reports on funds appropriations, allotments, encumbrances, and authorized payments to the mayor, the board of aldermen, and the head of the department or agency directly concerned; to inspect and audit any accounts or records of financial transactions which may be maintained by any department or agency of the town government apart from or subsidiary to the general accounts; and to perform such other duties pertaining to the financial records of the town government as the board of aldermen may require by ordinance.

Sec. 21. Duties of Town Tax Collector. The 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. 22. Duties of Town Treasurer. The treasurer 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, and shall have custody of all bonds and certificates of town indebtedness including such bonds and certificates unissued or cancelled, and the receipt and delivery of town bonds and certificates for transfer, registration, or exchange.

Sec. 23. Custody of Town Money. All moneys 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 aldermen in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by law. All interest on moneys belonging to the town shall accrue to the benefit of the town government. All moneys belonging to the town government shall be disbursed as prescribed by the board of aldermen.

Sec. 24. 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. 25. Purchase Procedure. Before making any purchase for supplies, materials, equipment, opportunity shall be given for competition, under such rules and regulations, and with such exceptions, as the board of aldermen may prescribe.

Sec. 26. Contracts for Town Improvements. Any town improvement costing more than thirty-five hundred dollars (\$3500.00) shall be executed by contract except where such improvement is authorized by the board of aldermen to be executed directly by a town department in conformity with detailed plans, specifications and estimates. All such contracts for more than thirty-five hundred dollars (\$3500.00) shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed by ordinance, provided the board of aldermen shall have the power to reject all bids and advertise again. Alterations in any contract may be made when authorized by the board of aldermen.

Sec. 27. Contracts Extending Beyond One Year. No contract involving the payment of money out of the appropriations of more than one year (other than renewals of continuing appropriations), shall be made for a period of more than ten years; nor shall any such contract be valid unless made or approved by ordinance. No ordinance providing for such a contract shall be valid unless notice of the intention to pass the same were published in a newspaper of general circulation within the town at least ten days before its passage by the board of aldermen.

Sec. 28. 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 aldermen, who have no personal interest directly or indirectly in the financial affairs of the town government or of any of its officers.

COURT

Sec. 29. Municipal Recorder's Court. The Municipal Recorder's Court of the Town of Elon College, established pursuant to the provisions of Article 24, Chapter 7 of the General Statutes of North Carolina, shall be continued under this Charter except as otherwise modified herein.

Sec. 30. General Statutes Applicable. Each and every Section of Article 24, Chapter 7 of the General Statutes of North Carolina as set forth therein shall be applicable to the Municipal Recorder's Court of the Town of Elon College: Provided, that Section 7-186 of the General Statutes is hereby amended to provide that the Recorder of the Municipal Recorder's Court of the Town of Elon College shall be elected by the Board of Aldermen of the Town of Elon College for a term of two years and until his successor is elected and qualified in the manner provided for herein. This provision for the election of the recorder by the board of aldermen shall not be effective until the expiration of the term for which the recorder serving on the effective date of this Act was elected,

MISCELLANEOUS PROVISIONS

Sec. 31. Publicity of Records. 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 aldermen, except records and documents, the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish.

Sec. 32. Personal Interest. Neither the mayor nor any member of the board of aldermen nor any officer or employee of the town shall have a financial interest, direct or indirect, in any contract with the town, or be financially interested, directly or indirectly, in the sale to the town of any land, materials, supplies, or services, except on behalf of the town as an officer or employee. Any willful violation of this Section shall constitute malfeasance in office, and any officer or employee of the town found guilty thereof shall thereby forfeit his office or position. Any violation of this Section, with the knowledge express or implied of the person or corporation contracting with the town shall render the contract voidable by the board of aldermen.

Sec. 33. 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 Elon College and will faithfully discharge the duties of the office of"

Sec. 34. 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. 35. 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 not consistent herewith, in so far as the Town of Elon College is affected thereby.

Sec. 36. Repealing Clause. All prior Charters and amendments thereto, and other local Acts of the General Assembly pertaining to the Town of Elon College are hereby repealed.

Sec. 37. This Act shall be in full force and effect from and after its ratification, provided that the mayor and board of aldermen in office at the time this Charter takes effect shall continue in office until their successors are elected and qualified.

In the General Assembly read three times and ratified, this the 2nd day of May, 1961.