

NORTH CAROLINA GENERAL ASSEMBLY  
1965 SESSION

CHAPTER 296  
HOUSE BILL 314

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

The General Assembly of North Carolina do enact:

CORPORATE POWERS

Section 1. Incorporation and Corporate Powers. The inhabitants of the Town of Pineville, North Carolina, within the boundaries as established in Section Three 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 Pineville, 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 Constitution of North Carolina or restricted by this Charter, the Town of Pineville 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 Pineville 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 issue and sell bond on the security of any such excess property, or of any public utility owned by the town, or of the revenues thereof, or of both, including

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.

(7) To own and operate a cemetery inside or outside town limits. Except as otherwise provided in this Act the town councilmen 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 Pineville 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 town councilmen.

Sec. 3. Corporate Boundaries. The corporate boundaries of the town shall be as follows: Beginning at a stake one-half mile North of Howard's Store, thence West to Big Sugar Creek, and East to Little Sugar Creek, on the South to a point one-half mile from said store, 884.30 feet to a point, thence South 5 degrees 33 minutes 15 seconds East 225.87 feet to an iron, thence South 63 degrees 23 minutes 30 seconds West 459.73 feet to an iron, thence North 26 degrees 45 minutes West 486.87 feet to an iron, thence South 474.90 feet to an iron, thence South 53 degrees 45 minutes East 29 feet to an iron, thence South 9 degrees 11 minutes West 164.56 feet to an iron, thence South 14 degrees 49 minutes West 917.5 feet to an iron, thence North 57 degrees 29 minutes West 397.1 feet to an iron, thence North 20 degrees 57 minutes West 467.3 feet to an iron, thence North 33 degrees 10 minutes West 502 feet to an iron, thence 600 feet to an iron, thence South 52 degrees 57 minutes West 96.59 feet to an iron, thence South 58 degrees 56 minutes West 344.60 feet to an iron, thence North 69 degrees 51 minutes West 211.02 feet to an iron, thence South 25 degrees 14 minutes East 205.20 feet to an iron, thence along the southern town limit line to the point of beginning, thence East to Little Sugar Creek, and West to Big Sugar Creek, and bounded on the East by Little Sugar Creek, and on the West by Big Sugar Creek, subject to the above lines.

Sec. 4. Creation, Salary, and Composition of Mayor and Town Councilmen. Except as otherwise provided in this Charter all powers of the town shall be vested in the town councilmen consisting of four members and a mayor nominated and elected from the town at large in the manner hereinafter provided. The term of office of the mayor and the town councilmen shall be for two years and until their successors are elected and qualified, and shall begin on the first day of June next following their election. If a vacancy occurs in the office of mayor or town council it shall be filled for the remainder of the unexpired term by a majority vote of the remaining members of town council. Each member of the town council shall receive a salary, the amount of which shall be prescribed by ordinance. Provided, however, that the present mayor and

members of the town council shall continue to receive the same salary until the same is changed as provided herein. No ordinance fixing or changing the salary of members of the town council shall become effective during the current term of office of the members of the town council enacting such ordinance. Members of the town council shall be qualified electors of the town. A member of the town council ceasing to possess any of the qualifications specified in this Section, or convicted of a felonious crime while in office, shall immediately forfeit his office.

Sec. 5. Meeting of the Town Council. At 7:00 o'clock on the first day of June following a regular municipal election (excepting if the first day of June should fall on a Sunday or a holiday, in which case, the following day) the town council shall meet at the usual place of holding its meetings and the newly elected members shall assume the duties of office. Thereafter the town council shall meet at such times 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 town council. 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 town council and of committees thereof shall be open to the public, and the rules of the town council 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 June following a regular municipal election the town council shall choose one of its members as vice-chairman, who shall act as mayor pro tem. The mayor shall preside at meetings of the town council and shall exercise other powers and perform such 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 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 town council, 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. Town Council Rules. The town councilmen shall be the judge of the election and qualifications of its members and the mayor, and in such cases shall have power to subpoena witnesses and compel the production of all pertinent books, records, and papers but the decision of the town councilmen in any such case shall be subject to review by the courts. The town councilmen shall determine its own rules and order of business and keep a journal of its proceedings.

Sec. 8. Quorum. A majority of the members elected to the town council 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 the majority of the members elected to the town council 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. 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. 9. Introductions and Passage of Ordinances and Resolutions. Ordinances and resolutions shall be introduced in the town council 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 the nays shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the town council. The enacting clause of all ordinances shall be, "Be it ordained by the Town of Pineville."

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 town council 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 town council 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 town council except as defined in this Section, and it is the intention 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 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 in three public places in such manner as the town council may prescribe.

#### MUNICIPAL ELECTIONS

Sec. 12. Municipal Elections. The regular election for the choice of mayor and members of the town council shall be held on Tuesday following the first Monday in May in odd numbered years. The town council may by resolution order a special election, fix the time for holding same, and provide all means for holding such special election. G. S. 160-29 through G. S. 160-51.

Sec. 13. Regulations of Elections. All elections shall be conducted in accordance with the general State laws relating to municipal elections, except as otherwise provided herein.

Sec. 14. Candidates for Office. Any qualified elector of the town may become a candidate for the office of mayor or town councilman by filing a written notice on forms provided by the town with the town clerk and by payment of the filing fee as provided herein. The filing fee for the office of mayor shall be twenty-five dollars (\$25.00) and for the office of town council shall be fifteen dollars (\$15.00).

The town clerk shall take and preserve the form filed by each candidate. No filing form shall be accepted unless signed by the candidate. Any candidate may withdraw his nomination not later than the last day for filing by filing a notice of withdrawal with the town clerk. The filing form of each candidate for mayor or a member of the town council shall be preserved by the town clerk until the expiration of the term of office for which he filed.

Sec. 15. Ballots. The full names of candidates nominated for mayor or town councilmen 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 surname 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 Town Council. All members of the town council 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 town council. 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 town council may appoint a town clerk, a treasurer, a tax collector, and 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 town council may appoint one person to fill any two or more such positions. Such employees or officers shall serve at the pleasure of the town council, and shall perform such duties as may be prescribed to the town council. The town council shall fix all salaries, prescribe bonds and require oaths as they may deem necessary.

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

Sec. 19. Duties of Town Attorney. The attorney shall be an attorney at law who shall have practiced in the State of North Carolina for at least five years. He shall

be the chief legal adviser of and attorney for the town and all departments and officer 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 town council; to give advice in writing, when so requested, to the town council 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 town council 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 town council, he shall perform any duties imposed upon the chief legal officers of municipalities by law.

Sec. 20. Duties of Town Accountant. The town accountant shall prepare the budget in accordance with the general 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 town council for purposes of administrative direction and financial control; to prescribe the forms of receipts, vouchers, bills, or claims to be filled by all departments and agencies of the town government; to examine and approve all contracts, orders and other documents by which the town incurs financial obligations, having ascertained before approval that moneys have been duly appropriated and allotted to meet such obligations and will become available when the obligations have become due and payable; to audit and approve all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the town government and to determine the regularity, legality, and correctness of such claims, demands, or charges; to make monthly reports on all receipts and expenditures of the town government to the mayor and town council and to take monthly reports on funds, appropriations, allotments, encumbrances, and authorized payments to the mayor, the town council, 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 town council may require by ordinance.

Sec. 21. 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. 22. 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, 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 town council 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. All moneys belonging to the town government shall be disbursed only on vouchers signed by the mayor and countersigned by the town clerk.

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 supplies, materials, equipment, opportunity shall be given for competition, under such rules and regulations, and with such exceptions, as the town council may prescribe by ordinance. All expenditures for supplies, materials, equipment, involving more than two thousand dollars (\$2,000.00) shall be made on a written contract, and such contract shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed by ordinance and not in conflict with the general law of the State.

Sec. 26. Contracts for Town Improvement. 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 town council to be executed directly by a town department in conformity with detailed plans, specifications and estimates, and provided, the total cost is estimated not to exceed fifteen thousand dollars (\$15,000.00). 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 town council shall have the power to reject all bids and advertise again.

Sec. 27. Contracts Extending Beyond One Year. No contract involving 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 was published in a newspaper of general circulation within the town at least ten days before its passage by the town council.

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 town council, who have no personal

interest directly or indirectly in the financial affairs of the town government or of any of its officers.

#### MISCELLANEOUS PROVISIONS

Sec. 29. 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 town council.

Sec. 30. Personal Interest. Neither the mayor nor any member of the town council 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 town council.

Sec. 31. 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 Pineville and will faithfully discharge the duties of the office of town councilman".

Sec. 32. 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 provision of such existing laws and Charter provisions.

Sec. 33. 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 Pineville is affected thereby.

Sec. 34. Chapter 125 of the Session Laws of 1963, and all other laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 35. This Act shall be in full force and effect from and after its ratification, provided that the mayor and town councilmen in office at the time of this Charter takes effect shall continue until their successors are elected and qualified.

In the General Assembly read three times and ratified, this the 21st day of April, 1965.